

ORIGINALDecision No. 68557

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOSEPH L. and NAN M. DEVANNEY, as joint tenants, for a certificate of public convenience and necessity; to own and operate a public utility water system (ROYAL OAKS WATER SYSTEM) in Madera County; and to establish metered and flat rates.

Application No. 46813
(Filed July 16, 1964)

Joe DeVaney, for applicants.
Clyde A. Gavin and Sidney Carlin, for
Oakhurst Chamber of Commerce,
Interested party.
John Gibbons, for the Commission staff.

O P I N I O N

Applicants Joseph L. DeVaney and Nan M. DeVaney, husband and wife, seek a certificate of public convenience and necessity covering the construction of a public utility water system.

A public hearing on this application was held before Examiner Catey in Madera on November 17, 1964. Copies of the application and notice of hearing had been served in accordance with this Commission's rules of procedure. At the hearing, testimony was presented by one of the applicants, by a Commission staff engineer, and by three of the present customers of the water system. There are no protests against granting the authorities requested by applicants. The matter was submitted at the conclusion of the hearing.

Service Area

Applicants' proposed initial service area consists of some 40 acres in Madera County known as Royal Oaks Estates

Subdivision, Tract No. 92. This area is located immediately southwest of the unincorporated community of Oakhurst and southeast of State Highway 41. It has been subdivided into 75 residential lots averaging about one-half acre each in area. It is surrounded on three sides by potential residential subdivision land and is adjacent on the north side to the business portion of Oakhurst. The terrain in this area slopes gradually upward from the bank of the Fresno River at elevations of from 2,240 to 2,350 feet above sea level.

The public utility water system nearest to the area requested is that of Broadview Terrace Water Company, located about one mile to the northeast. Oakhurst business houses and residents obtain their water from their own individual wells. A mutual water company, Yosemite Forks Mutual Water Co., is located three miles to the north. There is no publicly owned water system in the immediate vicinity.

History

The water system facilities were installed in 1961 and were financed, along with road improvements, by issuance of improvement district bonds. A Commission staff engineer testified that approximately \$680 of the total \$950 assessment of bond principal per lot is attributable to the installation of the water system. Bond principal and interest are liens upon the lots within the improvement district, which district consists of Tract No. 92.

Tract No. 92 is the same area requested in Application No. 43603 to be certificated to Oakhurst Water Company, a corporation. A dispute arose between the real estate developers and

the County of Madera concerning title to the water system. Oakhurst Water Company withdrew its application, which was dismissed by Decision No. 64459, dated October 23, 1962.

Ralph P. Aldridge and Euletta V. Aldridge, husband and wife, subsequently requested in Application No. 45637 that this area be certificated to them. They had obtained an option to purchase the water system from Madera County for \$38,000. Decision No. 66367, dated November 26, 1963, denied their application, primarily because:

- (1) It appeared that, as purchasers of lots subject to liens for payment of principal and interest on improvement district bonds, customers not only would have provided much of the capital for the water system but ultimately also would have been obligated to pay water rates which would have provided for depreciation expense and a return on the investment in plant.
- (2) Purchase of the water system from the county for \$38,000, with only a \$500 initial payment, would have resulted in an extremely high proportion of debt and low proportion of equity in the utility's capital structure.
- (3) Applicants in that proceeding could not show their personal financial position was strong enough to overcome the deficiencies in the capital structure for the utility operation.
- (4) The record did not indicate that clear title to the water system could be obtained.

The current application does not have the objectionable features of the aforementioned proposal:

1. The county now proposes to sell the system to applicants for \$500. The difference between depreciated original cost of plant and applicants' purchase price can appropriately be considered as contributions made by the property owners in the assessment district, which contributions are properly deductible from plant in determining depreciation expense and rate base for the utility system.

2. Although applicants' dollar amount of equity in the system will be small compared with the size of the operation, the utility will not be saddled with any initial indebtedness.
3. Applicants' personal financial condition will permit them to obtain funds for additions, improvements and replacements when expenditures for such purposes are needed.
4. There is now no pending litigation regarding Madera County's title to the water system.

Water System

The present system consists primarily of a well, a pump, a storage tank, distribution mains, and service pipes. The Commission staff report, Exhibit No. 1, states that the anticipated water supply of 160 gpm from the well, together with the 50,000 gallons of storage capacity in the tank, is sufficient to supply about 100 flat-rate customers. That exhibit also states that the tank could supply the system for about three days in the event of temporary failure of the single well source, and concludes that the system as constructed is adequate to serve Tract No. 92 and that it meets the minimum requirements of General Order No. 103.

The facilities applicants propose to purchase from the county for \$500 do not include the present well site, the future well site, nor the tank site. One of the applicants testified that their actual cost for these parcels of land is \$4,000. Applicants have also expended some \$1,000 for organization costs, office furniture and equipment.

The 4-inch and 6-inch distribution mains could provide the nucleus of an expanded system to serve adjacent territory. Applicants have acquired, and are holding for future use, an additional pump and well site along the Fresno River and its tributary, China Creek. Although applicants have no definite

plans for enlarging the system, they indicate they are willing and able to undertake such expansion.

Present Operations

Applicants, along with several other individuals, now operate the water system on behalf of the county, pursuant to Madera County Resolution No. 62-253, dated July 24, 1962, and in accordance with an agreement executed on the same date. The county charges the following rates:

<u>Classification</u>	<u>Rates</u>
Vacant lots	\$ 5.00 per year
Lots with residences, October - March	5.00 per month
Lots with residences, April - September	10.00 per month
Lots with apartments, per apartment	3.50 per month
Service connections: Cost to be borne by lot owner.	

As of July 16, 1964, the system served five residential customers and one apartment building with eight apartments. Under the present rates charged by the county, total revenue from the owners of occupied lots would be \$786 per year and total revenue from the owners of vacant lots would be \$345 per year. Exhibit "M" to the application shows disbursements by the county of \$1,302 for the 22-month period ended in June 1964, which is equivalent to expenses, exclusive of taxes and depreciation, of \$710 per year for that period.

Future Operations

The following summary shows the rates requested by applicants, those recommended by the Commission staff in Exhibit No. 1, and those authorized by the order herein:

<u>Classification</u>	<u>Monthly Rates</u>		
	<u>Applicants</u>	<u>Staff</u>	<u>Authorized</u>
<u>Flat Rates</u>			
Single-family residential unit	\$7.50	\$3.25	\$4.00
Apartment house, per apartment	3.50	1.50*	2.00*
Fire Eydrant	5.00	1.00	1.00
<u>Meter Rates</u>			
First 500 cu.ft., or less	4.50	2.75	3.25
Next 800 cu.ft., per 100 cu.ft.	.50	.30	.30
Next 200 cu.ft., per 100 cu.ft.	.43	.30	.30
Next 1,000 cu.ft., per 100 cu.ft.	.43	.25	.25
Next 1,500 cu.ft., per 100 cu.ft.	.38	.25	.25
Next 2,000 cu.ft., per 100 cu.ft.	.33	.25	.25
Next 4,000 cu.ft., per 100 cu.ft.	.33	.20	.20
Over 10,000 cu.ft., per 100 cu.ft.	.30	.20	.20

*After initial unit.

The staff recommends that meters be installed at the option of the utility only, to avoid wasteful investment in meters on services with low potential consumption. The staff also recommends that the flat rates and meter minimum charges be established on an annual-rate basis, because of the semi-resort character of the area, but that permanent residents be billed bimonthly or quarterly. These staff recommendations, with minor modifications, are incorporated in the rate schedules authorized by the order herein.

Applicants designed their requested rates to cover (1) their estimated operating expenses, (2) accruals to a reserve for replacement of contributed plant and (3) a 9 to 12 percent return on rate base. The staff development of recommended rates is based upon (1) somewhat lower estimates of operating expenses, (2) exclusion of accruals for replacement of contributed plant, (3) exclusion from rate base of land held for future use, and (4) the adoption of 7 percent as a reasonable return on rate base.

Both applicants and staff assumed 80 percent occupancy of the lots in Tract No. 92 for the purpose of establishing reasonable rates.

If the record showed that 80 percent occupancy of the lots might reasonably be expected within a few years, we would adopt the staff's recommended rates, modified upward to provide a higher rate of return. A higher rate of return would be warranted because of the high risk to earnings inherent in the abnormally low rate base of about \$50 per customer under the assumed conditions. The record discloses, however, that customer growth in the area has been very slow and that the assumed customer density probably will take about ten years to be achieved.

Exhibit No. 1 shows that the initial flat rates authorized recently for new water utilities serving areas similar to Tract No. 92 are in the range of \$4.50 to \$5.00 per month. In view of the indeterminate rate of growth within and adjacent to Tract No. 92, it appears reasonable to grant rates similar to those of other new utilities, reduced somewhat in recognition of applicants' abnormally low depreciation expense and rate base. A precise determination of appropriate rates cannot be made but those authorized by the order herein should cover applicants' out-of-pocket expenses during the first five years of the utility operation. For the first five years, applicants will be required to file in this proceeding annual summaries of earnings.

Assessment Bond Financing

The financing of a water system by means of assessment bonds without having provided for continued responsible management and operation of the system leads to the types of problems emphasized by the record in this proceeding. First, the developer

of the tract has no investment of his own in the water system so his interest in adequate water service is apt to wane as soon as most of the lots are either sold or found to be not readily marketable. Second, title to the water system appears to become vested in the county, which may not have an established utility management organization or readily available qualified utility operating personnel. Third, if the county sells the system for a token sum or gives it to someone to operate as a public utility, the utility owner is then in much the same position as was the initial developer, i.e., he has little or no investment to protect and upon which to earn a return.

It would not be in the public interest to permit the establishment of a public utility with no financial stability and little hope for economically feasible future operations. We would be inclined to deny the present application were it not for certain mitigating considerations. One such consideration is the fact that applicants will have several thousand dollars of their own funds invested in the system, in addition to the token payment to the county. Another factor is the apparent financial ability and willingness of applicants eventually to expand the system to serve the public needs of the adjacent community. The Commission staff exhibit indicates that the individual wells serving Oakhurst business houses and residents are no longer producing water of good quality. The statements of the Oakhurst Chamber of Commerce also indicate a need for eventual establishment of a system to serve the entire community. Finally, applicants reside near the proposed certificated area and have gained experience in operating the water system under their contract with the county.

Findings and Conclusions

The Commission finds that:

1. Public convenience and necessity require the construction of a water system to serve the certificated area requested herein.
2. The rates and charges authorized herein are reasonable.
3. The facilities proposed to be acquired by applicants are adequate to serve the requested area and comply with the requirements of General Order No. 103.
4. The initial development, to which in this case the main extension rule to be filed by applicants shall not apply, consists of the area certificated herein.
5. Applicants have the financial ability to provide service to the requested area.

The Commission concludes that the application should be granted as set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicants, Joseph L. DeVaney and Nan M. DeVaney authorizing the construction of a public utility water system to serve Tract No. 92, Madera County.
2. After the effective date of this order and prior to the date of actual transfer of the water system to applicants, applicants shall file the rate schedules attached to this order as Appendix A, a tariff service area map, appropriate general rules, and sample copies of printed forms to be used in connection with customers' services. Such filing shall comply with General Order No. 96-A. The effective date of the tariff sheets shall be the date of actual transfer.

3. Prior to the date of actual transfer, applicants shall apply to the appropriate public health authority having jurisdiction for a water supply permit for the water system and shall file in this proceeding a copy of the application for such permit.

4. Within ten days after the date of actual transfer, applicants shall file in this proceeding written notice thereof.

5. Compliance by applicants with paragraphs 2 and 4 of this order shall constitute acceptance by them 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 and become effective within one year after the effective date of this order.

6. Applicants shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within sixty days after the date of actual transfer, applicants shall file with the Commission two copies of this map.

7. For the year 1965, applicants shall apply a depreciation rate of 3 percent to the original cost of depreciable plant. Until review indicates otherwise, applicants shall continue to use this rate. Applicants shall review their depreciation rates at intervals of five years and whenever a major change in depreciable plant occurs. Any revised depreciation rate shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant; (2) dividing the remainder by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant. The results of each review shall be submitted promptly to the Commission.

8. Applicants shall dispose of the balance in Account 100-5, Utility Plant Acquisition Adjustments, resulting from their proposed

purchase of a water system from Madera County, by transferring that balance immediately to Account 265, Contributions in Aid of Construction. Accounting for depreciation to be accrued on the portion of the properties included in this account shall be in accordance with the Uniform System of Accounts for Water Utilities (Class A, Class B and Class C) prescribed by this Commission.

9. For the first five years of applicants' operation of their water system, they shall file in this proceeding annually, on or before April 1 of each year, a summary of operating revenues, operating expenses, rate base and rate of return on rate base for the preceding calendar year.

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

Dated at San Francisco, California, this 9th day of February, 1965.

Frederick B. Holhoff
President

George H. Fisher

William W. Donald

[Signature]

[Signature]

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Schedule No. 1A

ANNUAL GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on an annual basis.

TERRITORY

Royal Oaks Estates Subdivision, Tract No. 92 and vicinity, located immediately adjacent on the southwest to the community of Oakhurst, Madera County.

RATES

Monthly Quantity Rates:		<u>Per Meter Per Month</u>
First	500 cu.ft., or less	\$ 3.25
Next	1,000 cu.ft., per 100 cu.ft.30
Next	4,500 cu.ft., per 100 cu.ft.25
Over	6,000 cu.ft., per 100 cu.ft.20

Annual Minimum Charge:		<u>Per Meter Per Year</u>
For	5/8 x 3/4-inch meter	\$ 39.00
For	3/4-inch meter	48.00
For	1-inch meter	66.00
For	1 1/2-inch meter	108.00
For	2-inch meter	144.00

The Annual Minimum Charge will entitle the customer to the quantity of water each month which one twelfth of the annual minimum charge will purchase at the Monthly Quantity Rates.

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated minimum

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Schedule No. 1A

ANNUAL GENERAL METERED SERVICE

SPECIAL CONDITIONS (continued)

charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods for water used in excess of the monthly allowance under the annual minimum charge. When meters are read bimonthly or quarterly, the charge will be computed by doubling or tripling, respectively, the number of cubic feet to which each block rate is applicable on a monthly basis.

2. The opening bill for metered service, except upon conversion from flat rate service, shall be the established annual minimum charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

Schedule No. 2AR

ANNUAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service furnished on an annual basis.

TERRITORY

Royal Oaks Estates Subdivision, Tract No. 92 and vicinity, located immediately adjacent on the southwest to the community of Oakhurst, Madera County.

RATES

	Per Service Connection
	Per Year
For a single-family residential unit, including premises	<u>\$48.00</u>
For each additional single-family residential unit on the same premises and served from the same service connection	24.00

SPECIAL CONDITIONS

1. The above flat rate for a single-family residential unit applies to service connections not larger than 3/4-inch in diameter.

2. All service not covered by the above classifications shall be furnished only on a metered basis.

3. For service to a single-family residential unit, if the utility so elects, and for service to multiple units, if either the utility or the customer so elects, a meter shall be installed and service provided under Schedule No. 1A, Annual General Metered Service, effective as of the first day of the following calendar month. Where the flat rate charge for a period has been paid in advance, refund of the prorated difference between such flat rate payment and the minimum meter charge for the same period shall be made on or before that day.

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Schedule No. 2AR

ANNUAL RESIDENTIAL FLAT RATE SERVICE

SPECIAL CONDITIONS (continued)

4. The annual flat rate charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated flat rate charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods.

5. The opening bill for flat rate service shall be the established annual flat rate charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, duly organized fire districts and other political subdivisions of the State.

TERRITORY

Royal Oaks Estates Subdivision, Tract No. 92 and vicinity, located immediately adjacent on the southwest to the community of Oakhurst, Madera County.

RATE

	<u>Per Month</u>
For each hydrant	\$1.00

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges shall be made at the quantity rates under Schedule No. 1, General Metered Service.
2. Relocation of any hydrant shall be at the expense of the party requesting relocation.
3. Fire hydrants shall be attached to the utility's distribution mains upon receipt of proper authorization from the appropriate public authority. Such authorization shall designate the ownership, type, and the size of the hydrant and the specific location at which each is to be installed.
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.