

ORIGINALDecision No. 71670

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of INDIAN WELLS WATER COMPANY, a California corporation, for authority to extend water service to Indian Lakes Estates, contiguous area.

Application No. 48838
(Filed October 4, 1966)

O P I N I O N

In Application No. 48211 filed January 28, 1966, Indian Wells Water Company sought authority to construct a public utility water system to serve an entire subdivision known as Indian Lakes Estates (hereinafter referred to as Subdivision) comprising 510 lots located near the community of Coarsegold in Madera County. By Decision No. 70864, dated June 14, 1966, a certificate of public convenience and necessity was granted for a system to serve only Lots Nos. 36 through 78 and 245 through 318 and extension of service to other lots within, or to areas outside of, the Subdivision was prohibited unless authorized by further order of the Commission.

The present application of Indian Wells Water Company requests authority to extend water service to the remaining lots (Nos. 1-35, 79-244, and 319-510), in the Subdivision. In addition, applicant seeks authority to carry out the terms of an agreement with its alter ego, the owner-developer of the Subdivision, covering the construction of the water system, its acquisition by applicant, and conditions under which water service will be rendered.

Official notice is taken of both Application No. 48211 and Decision No. 70864 therein, supra, since they appear to be essential to an adequate record in the matter now before us. Similarly, a letter dated November 2, 1966, addressed to the Commission by applicant's attorneys, a report on the present application dated October 27, 1966, prepared by a staff engineer and a report of a staff financial examiner dated November 15, 1966, appear essential and are included as Exhibits Nos. 1, 2, and 3, respectively.

As related in Decision No. 70864, applicant's proposed principal stockholders are the owners and developers of the Subdivision. The Subdivision which was further described as being a portion of the south half of Section 21 and the north three-quarters of Section 28, Township 8 South, Range 21 East, Mount Diablo Base and Meridian, comprising approximately 700 acres, is within an area zoned "single family residential" and is intended primarily for resort, retirement, and second home accommodations. In Exhibit 2 herein, the staff reports that there have been no significant changes in applicant's operations (no customers yet served), financial status, or affiliated interests since the earlier review made in connection with Application No. 48211.

One of the principal considerations in reaching the earlier decision to limit service to a portion of the Subdivision reflected the fact that there were only three existing wells with a safe yield expected to be somewhat less than 20 gpm per well. The staff report (Exhibit 2) discloses that there are now about 10 wells capable of producing a total of over 200 gpm and that

copies of 72-hour duration production tests of these wells have been furnished the Commission.

The aforementioned sources of supply together with 150,000 gallons of elevated storage and approximately 67,000 feet of transmission and distribution mains ranging in diameter from 4 inches to 10 inches comprise by and large the water system as set forth in detail in Application No. 48211. It will be installed, and capable of furnishing service, in accordance with General Order No. 103. Its estimated cost is \$229,750.

As part of the supplemental information provided by Exhibit 1, it is noted that applicant has filed a \$208,000 bond with the County of Madera guaranteeing that the water system will be completed not later than September, 1967. Actually, applicant anticipates such completion by about July 1, 1967.

Turning to financing, we note in Exhibit 3 the staff adopts the following position, which, in giving consideration to both earlier and present circumstances, appears to follow implicitly from Decision No. 70864:

All water facilities installed in the Subdivision prior to July 4, 1967, which is one year after the effective date of Decision No. 70864, should be considered as constituting the initial system, and the entire cost of such initial system should be financed by equity capital, to be recorded by credits to Capital Stock account in the amount of \$25,000 for stock issued and to Capital Surplus account for cost in excess of the par value of stock issued by applicant as consideration in the acquisition of the water system facilities.

The agreement attached as Exhibit C to the application bears in part upon financing in that it provides for applicant acquiring the entire water system upon its completion to serve the full subdivision from the owner-developer in exchange for all of

applicant's stock to be issued and outstanding. Exhibit 1 clarifies that the intended purpose of this agreement is to indicate the mutual interest of applicant and of owner-developer of Subdivision to exercise the authority granted by ordering paragraph 9 of Decision No. 70864, which reads as follows:

"Applicant, on or after the effective date hereof and on or before December 31, 1966, may issue not to exceed 25,000 shares of its \$1 par value capital stock in the aggregate amount of \$25,000 for the purposes set forth in the foregoing opinion."

Exhibit 1 further clarifies that the use of the word 'contribute' in said Exhibit C is intended to mean transfer, convey, or exchange, and since the acquisition of the system is to be effected as consideration for the issuance of stock to the transferor, no gift or contribution is contemplated or intended.

It appears that approval of this agreement would not serve a constructive purpose for several reasons. To the extent the agreement may conform to the financing cited above from Decision No. 70864, further authority or approval is not needed. To the extent the agreement relates to conditions under which water service will be rendered, applicant's filed tariffs are controlling except as to a deviation from the main extension rule which is to be hereinafter authorized. To the extent the agreement may represent departures from either the financing cited or applicant's filed tariffs other than the deviation mentioned, neither the need nor the justification for such departures has been shown.

Applicant has requested that its rates for water service presently on file be made applicable to the area for which extension is requested herein. Applicant's representatives have

indicated their ability to, and continued intention of, making up operating losses which will occur during the developmental period of the area served.

The Commission finds that:

1. Applicant has now developed sources of water supply adequate to serve the entire 510 lot subdivision known as Indian Lakes Estates.
2. Applicant's water system as planned meets the requirements of General Order No. 103.
3. The restriction imposed by Decision No. 70864 on extensions of the water system should be lifted to the extent set forth in the ensuing order.
4. The financing set forth in ordering paragraph 9 of Decision No. 70864 applies to the acquisition of all water system facilities necessary to serve the entire Indian Lakes Estates subdivision which are installed prior to July 4, 1967.
5. Applicant, to carry out this financing, should be authorized to deviate from its filed main extension rule to the extent set forth in the ensuing order.
6. Approval of the agreement attached as Exhibit C to the application would not serve a constructive purpose and therefore should not be granted.
7. A public hearing is not necessary.

The Commission concludes that applicant's request to extend water service should be authorized subject to the terms and conditions imposed by the following order. In all other respects the application is denied.

ORDER

IT IS ORDERED that:

1. Authorization is hereby granted to Indian Wells Water Company to construct an extension to its public utility water facilities to serve the remaining 393 lots in Indian Lakes Estates, Madera County, in the area shown in Exhibit A attached to the application.

2. Applicant shall not extend service outside Indian Lakes Estates subdivision without further order of the Commission.

3. Upon exercising the authority to use equity financing as set forth in ordering paragraph 9 of Decision No. 70864, applicant is authorized and directed to deviate from its filed main extension rule with respect to water system facilities installed prior to July 4, 1967, under the construction authorized in ordering paragraph 1 above.

4. After the effective date of this order applicant is authorized to file revised tariff sheets including tariff service area maps to provide for the application of its present tariff schedules to the area extension authorized herein. Such filing shall comply with General Order No. 96A. The effective date of the revised tariff sheets shall be four days after the date of filing.

5. Within 10 days after service is first rendered to the public under the authority granted herein applicant shall file in this proceeding a written notice thereof to this Commission.

The authority granted herein shall expire unless exercised within one year after the effective date of this order.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 6th day of DECEMBER, 1966.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

Commissioner George G. Grover did not participate in the disposition of this proceeding.