

**ORIGINAL**

Decision No. 72007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of H. H. and Mildred B. Morse for a certificate of public convenience and necessity to construct a public utility water system near Pine Flat Resort in Tulare County and to establish rates for service.

Application No. 48476  
(Filed May 16, 1966)

In the Matter of the Application of NANCY C. JOHNSON and LUIS S. KING, as co-owners, (Pine Mountain Water Company) for authorization to extend water service beyond present certificated area.

Application No. 48639  
(Filed July 19, 1966)

H. H. Morse, for applicants in Application No. 48476.  
Nancy C. Johnson and Fred A. Strauss, for Pine Mountain Water Co.  
Helen Conklin, interested party.  
W. B. Stradley and John J. Gibbons, for the Commission staff.

O P I N I O N

On January 11, 1966, by Decision No. 70198 in Application No. 47946, Nancy C. Johnson and Luis S. King, operating as Pine Mountain Water Company (Pine Mt.), received a certificate to serve Tract No. 438 in Tulare County. This certificate was restricted against extension outside of the certificated area. Because of this restriction the present application was filed. Unit No. 1 of Pine Mountain Ranch was Tract No. 438. It consisted of about 22 acres subdivided into 44 lots. Unit No. 2 is the subject of Application No. 48639, and consists of approximately 65 acres subdivided into 85 lots of which 83 are slated to be residential.

The Morses (who do business as Rainbow Ranch Water Co.) filed Application No. 48476, apparently with some reluctance, after finding themselves unable to obtain water service for their subdivisions from either of their neighbors. These are Pine Mt. on the east and the Pine Flat Water Co. on the west. One of the directors of Pine Flat Water Co. attended the hearing and appeared on her own behalf as an interested party, but made no representations. There is reason to believe that both Pine Mt. and Pine Flat Water Co. have limited supplies of water, which might account for their unwillingness to serve Rainbow Ranch.

A public hearing was held before Examiner Power at Porterville on September 22, 1966, and the matter submitted subject to the late filing of an exhibit (No. 2). This has been received.

Most of the hearing time was consumed by negotiations between Pine Mt. and Rainbow Ranch. As a result of the discussions, an agreement was reached between the two sets of applicants and outlined in testimony at the hearing. Subsequent to the hearing, the parties jointly employed an attorney who reduced the oral agreement reached at the hearing to contract form. It is a copy of the resulting contract which was later filed as Exhibit No. 2.

The effect of this agreement would be a withdrawal of the Morse Rainbow Ranch application and an agreement by Pine Mt. to serve Morse's property.<sup>1/</sup> There are certain conditions, some of which will require Commission authorization. The notable features of the agreement will be discussed below;

The Morses are required to bring their system into compliance with General Order No. 103, at their own expense. Morse is to disconnect his Well No. 1 from the system. He is not to use this water for household purposes.

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<sup>1/</sup> This is the Rainbow Ranch which gave its name to the water company.

A well and well site are to be conveyed to Pine Mt., subject to reversion or reconveyance. Well No. 2 is to be left on the Morse system, and together with the pump, pump house, pump site and necessary easements, is to be conveyed to Pine Mt. without compensation. The same applies to a 12,500-gallon reservoir and its necessary easements. Both of these are to be reconveyed to Morse, if Morse conveys his rights in a certain ditch to Pine Mt.

The well site is to be conveyed with an access easement from Morse to Pine Mt. without charge. This shall be reconveyed if any of three possibilities result. First, failure to drill a well within 5 years; second, if (when drilled) the well fails to produce five or more gallons per minute; and third, the well (if drilled) is left inoperative for 180 days.

The refund, under Pine Mt.'s filed main extension rule, shall not apply to the cost of the well site, well, reservoir, easements, old lines remaining in the system, disconnection of Well No. 1, chlorinator (if needed) and accrued legal and engineering fees. All these are to be paid for by Morse.

It will be noted that the conveyance of back-up facilities and the exceptions from refunding are deviations from Pine Mt.'s filed extension rule and will require Commission authorization.

The systems are all located in the California Hot Springs-Pine Flat area in Tulare County, just north of the Kern County line. The area is in the mountains, and is bounded by the Sequoia National Forest in several places. The elevations are approximately 4,000 feet above sea level.

Pine Mt. proposes to install a system that will comply with General Order No. 103. The partners propose to extend their presently filed rates to the new areas. The basic rates in question are a \$66 per year flat rate, a \$60 per year minimum on the 5/8-by 3/4-inch meter size and a fire hydrant rate of \$2 per month per hydrant. For an area of mountain summer homes, such rates are typical.

In view of the difficulties often experienced in developing water in mountain areas of this type, the requested deviation from Pine Mt.'s filed Rule No. 15, main extensions, is warranted.

The Commission finds that:

1. Public convenience and necessity require that Nancy C. Johnson and Luis S. King, dba Pine Mountain Water Co., be authorized to extend their system as set forth in the order following.

2. Applicants Nancy C. Johnson and Luis S. King possess the financial resources to operate the proposed system.

3. The rates set forth in the recently filed schedules of Nancy C. Johnson and Luis S. King are fair and reasonable for the service to be rendered.

4. The existing and planned water supply and distribution facilities will provide reasonable service for Tract No. 454, Tract No. 416, Tulare County and an area consisting of 12 parcels of land adjacent to Tract No. 416 and adjacent areas of Rainbow Ranch, as well as the presently certificated area and substantially meet the requirements of General Order No. 103.

The Commission concludes that the sought extension should be granted subject to the terms and conditions imposed by the following order, and that Application No. 48476 should be dismissed.

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

The Commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right. No contract for consolidation or lease shall be capitalized, nor shall any public utility issue any bonds, notes, or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Nancy C. Johnson and Luis S. King, doing business as Pine Mountain Water Company, authorizing them to construct an extension of their public utility water system facilities to serve Tract No. 454, Tulare County, as shown on Exhibit A attached to Application No. 48639, and the Rainbow Ranch areas delineated on the map, Exhibit No. 1 to Application No. 48476.

2. After the effective date of this order Nancy C. Johnson and Luis S. King may file revised tariff sheets including revised tariff service area maps to provide for the application of their present tariff schedules to the area certificated herein. Such filing shall comply with General Order No. 96-A and the revised tariff sheets shall become effective the fourth day after the date of filing. The authority granted herein shall expire unless the designated tariff sheets are filed within one year after the effective date of this order.

3. Nancy C. Johnson and Luis S. King shall not extend service outside of their certificated area, nor file any revised tariff service area maps indicating their willingness to so extend service, without first having obtained authorization therefor by further order of this Commission.

4. Within ten days after service is first furnished to the public under the authority granted herein, Nancy C. Johnson and Luis S. King shall file in this proceeding written notice thereof.

5. Nancy C. Johnson and Luis S. King shall prepare and keep current the system map required by paragraph I.10.a of General Order No. 103. Within thirty days after the water system extension is placed in operation under the authority granted herein, they shall file with the Commission two copies of the map.

6. When substantially all of the distribution mains have been installed in Tract No. 454, Tract No. 416 and adjacent areas, and not later than one year after the first customer is served under the authority granted herein, Nancy C. Johnson and Luis S. King shall have a qualified engineer prepare a statement certifying that all Class 100 asbestos-cement water pipe installed as part of the water system was selected and installed in accordance with the standards contained in American Water Works Association publications AWWA H2, Standard Practice for the Selection of Asbestos-Cement Water Pipe, and AWWA C603-64T, Tentative AWWA Standard for the Installation of Asbestos-Cement Water Pipe. A copy of the statement shall be filed in this proceeding within thirty days after its preparation.

7. Applicants Johnson and King are authorized to deviate from their filed Main Extension Rule No. 15 to the extent necessary to give effect to the agreement of October 3, 1966, a copy of which is in evidence as Exhibit No. 2.

8. In extending service to those areas of Rainbow Ranch not now served by H. H. and Mildred B. Morse, applicants Johnson and King shall strictly comply with their Rule No. 15.

9. Application No. 48476 is dismissed.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of FEBRUARY, 1967.

*[Signature]* President  
*William C. Burnett*  
*[Signature]*  
*William Sprouns, Jr.*  
*Neil P. Mousser* Commissioners