

ORIGINAL

Decision No. 72192

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of TORO WATER SERVICE, INC., a corporation, for an order granting a certificate of public convenience and necessity to construct a public utility water system; to exercise a county franchise; to establish rates; and for authority to issue stock.

Application No. 48857
(Filed October 11, 1966)

Graham James & Rolph, by Boris H. Lakusta,
for applicant.
John Gibbons and W. B. Stradley, for the
Commission staff.

O P I N I O N

Toro Water Service, Inc., seeks (1) a certificate to construct a public utility water system, (2) a certificate to exercise the rights and privileges of a county franchise, (3) authority to issue securities, and (4) authority to establish rates.

In the application as filed, ex parte authorization was requested. As the Commission staff pointed out in its opening statement, however, the staff investigation indicated that the record would not be complete without clarification of the information presented in the application. The evidence presented at the hearing shows, in fact, that the application as filed did not disclose highly pertinent information as to the financing of the water installation, as hereinafter discussed.

Public hearing was held before Examiner Catey in Salinas on January 11 and 16, 1967. Copies of the application had been served and notice of hearing published, in accordance with this

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Commission's rules of procedure. The matter was submitted on January 16, 1967.

Testimony on behalf of the applicant was presented by the contractor who is to construct the water system (and who is also to be applicant's general manager and potentially its sole stockholder) and by one of the developers of the tract. The Commission staff presentation was made by an engineer and an accountant.

Service Area

The area for which a certificate is requested is located immediately south of State Highway 68, near the intersection of Corral de Tierra Road, about eight miles west of Salinas, Monterey County. It is to be developed into a 316-acre residential subdivision to be known as "Corral de Tierra Oaks", consisting of about 255 residential lots, recreational grounds, a community center, and some undeveloped open area. Under plan for immediate development is the 67-acre Unit 1, consisting of approximately 66 lots and three open areas for recreation, as delineated on the map, Exhibit No. 5. The subdividers plan to develop additional units at the rate of 50 to 60 lots per year. The lots are to be sold without homes or other improvements constructed thereon.

The nearest existing water systems are an adjacent small mutual water company and two public utility water systems located, respectively, four miles west and one mile east of applicant's proposed service area.

Proposed Water System

Upon completion of all of the system, sources of supply are to be two wells located within the service area. The well water is to be pumped directly into the distribution system, with surplus water to be stored in a large tank at the highest elevation in the

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tract for use during peak periods of demand. A few lots at the higher elevations are to be served by a booster pump, and hydro-pneumatic tank which are to be installed when those lots are developed.

The distribution system for the entire area is to include approximately five miles of 4-inch, 6-inch and 8-inch pipe, laid primarily in streets. Service pipes are to be 1 inch and 1-1/2 inch. The staff indicates in Exhibit No. 3 that the overall design of the system appears to comply with General Order No. 103, except that applicant has not formulated specific plans for the booster pumps and related facilities which will be needed if and when the highest lots are developed in subsequent units of the subdivision.

Applicant disclosed at the hearing that it intends temporarily to install a hydropneumatic tank to be used, in conjunction with a pump in the proven well, to maintain system pressure in Unit 1, the initial development. Later, when additional units of the subdivision are developed, the storage tank and second well will be added and the hydropneumatic tank moved up the hill to the booster station then to be installed for the highest lots. This plan makes no provision for a standby source of supply or storage to be available during inevitable shutdowns for routine or emergency maintenance and repair of the initial single well facilities.

Franchise and Permit

Applicant alleges that a county franchise is required and that it has filed an application with the Board of Supervisors of Monterey County for a franchise. The terms of that franchise will not be known until such time as it is granted. Applicant

also alleges that it will file an application with the Monterey County Health Department for a public water supply permit.

Provision was made at the hearing for submission by applicant, as late-filed Exhibit No. 4, a copy of the county franchise when available. Also, Rule 20 requires that a copy of the franchise must be attached to a supplemental application for a certificate of public convenience and necessity to exercise the franchise.

Rates and Earnings

The rate schedules proposed by applicant provide for general metered service, private fire protection service, public fire hydrant service and construction service. These rates are essentially the same as those of the nearby Bishop Water Company. Applicant's witness testified that the Bishop service area was similar in many respects to applicant's proposed service area but admitted that he was not familiar in detail with Bishop's operations. The staff states in Exhibit No. 3 that applicant's proposed rates are substantially higher than those in effect for typical water utilities operating under generally similar conditions. Further, the staff engineer testified that Bishop has long transmission lines and has high pumping and water treatment costs, compared with applicant's proposed operation.

Following is a comparison of the rates requested by applicant and those recommended in Exhibit No. 3 by the Commission staff.

TABLE I
COMPARISON OF MONTHLY RATES

<u>Item</u>	<u>Applicant</u>	<u>Staff</u>
General Metered Service:		
First 1,000 cu.ft. or less.....	\$ 8.00*	\$ 6.00*
Next 1,000 cu.ft., per 100 cu.ft.60	.40
Over 2,000 cu.ft., per 100 cu.ft.35	.30
Private Fire Protection Service:		
Per inch diameter of service	2.00	1.50
Public Fire Hydrant Service:		
Per hydrant	4.00	4.00
Metered Construction Service:		
Minimum Charge	15.00	#
All water delivered, per 100 cu.ft. ..	.75	#

* For service through a 5/8 x 3/4-inch meter. Appropriately greater minimum charges for larger meters.

Same as for general metered service.

Exhibit "G" attached to the application shows applicant's estimate of its results of operations at 80 percent occupancy of the entire service area requested. That exhibit is summarized as follows:

TABLE II
APPLICANT'S SUMMARY OF EARNINGS ESTIMATE

<u>Item</u>	<u>Amount</u>
Revenues	\$ 51,200
Expenses	<u>34,500</u>
Net Revenue	16,700
Utility Plant	350,000
Rate of Return	4.8%

The staff engineer testified that, in his opinion, applicant's estimates of expenses are somewhat high. For example, the staff's review of typical expenses for small utilities indicated

an average of about \$50 per year per customer, as compared with applicant's estimate of \$95. The staff engineer stated that, in particular, applicant's estimates of pumping expense and customer accounting and collecting expenses were abnormally high.

Applicant's contractor, who prepared applicant's plant cost estimates, testified that those estimates came to the rather high average of \$1,300 per subdivision lot because:

1. The subdivision has less than one lot per acre.
2. There have been general increases in material costs.
3. The Corral de Tierra Oaks area required high design criteria and quality of construction.
4. The initial system is overdesigned for future expansion.
5. The initial operation will have more office, automotive and construction equipment than would be normal for a small utility.

Applicant's contractor testified that his cost estimates for distribution mains, on a per-foot basis, are some 60 to 90 percent higher than costs experienced by Alisal Water Corporation in Salinas, of which he is General Manager, because of:

1. Steep wooded terrain in applicant's proposed service area as compared with Alisal's flat, clear area.
2. ~~Some~~ ~~tightly~~ ~~compacted~~ ~~soil~~ ~~with~~ ~~granite~~, ~~sand~~ ~~and~~ ~~clay~~ in applicant's proposed area as compared with Alisal's light topsoil.
3. Higher cost of labor for a contractor than for a utility.
4. Higher overhead for a contractor than for a utility.
5. Factors for profit and contingencies which apply to a contractor, but not to a utility.

The staff engineer testified that the installer of gas mains in the Corral de Tierra Oaks Subdivision had experienced no unusual costs of installation, trenching and backfilling, other than a few cents per foot for transportation of equipment between

Salinas and the subdivision. This throws some doubt on the validity of applicant's estimates, especially since applicant apparently proposes to issue stock and set up plant records based upon those estimates, as though they were firm prices established by bid. Further, the derivation of cost of the land to be used for pump and tank sites was not presented.

There are other apparent infirmities in applicant's plant cost estimates. For example, Exhibit E attached to the application and Exhibit No. 2 presented by applicant at the hearing show a duplication in estimated "contingencies". Another example is applicant's assumption of 30 feet as the average length of service pipe, which would indicate a curb-to-curb street width of about 60 feet instead of the actual width of about 30 feet.

If the costs of distribution mains, services and hydrants outside of Unit 1 of the subdivision are covered by advances for construction, in accordance with the uniform water main extension rule applicable to water utilities under this Commission's jurisdiction, applicant's estimated rate base would be reduced by about \$160,000. Applying applicant's estimated net revenue of \$16,700 to the remaining rate base of about \$190,000 would result in a return of about 8.8 percent at applicant's proposed rates. If applicant's plant cost estimates and expense estimates prove to be too high, as is probably the case, the rate of return will be even greater. Under these circumstances, the rates recommended by the staff appear reasonable and are authorized by the order which follows.

Financing

In the application, as filed, authority was requested for applicant to issue 3,500^{1/} shares of its \$100 par value capital stock

^{1/} Amended to 3,430 shares at the hearing.

to the subdivision developers in consideration for their proposed transfer to applicant of the water system which the developers had undertaken to have constructed by a contractor.

At the hearing applicant disclosed^{2/} that, prior to the filing of the application, it had entered into an agreement (Exhibit No. 1) with the developers and the contractor. Under the terms of the agreement, the developers would:

1. Pay the filing fee for applicant's Articles of Incorporation.
2. Convey to applicant two well sites, a tank site and a well.
3. Pay the contractor, in cash, as lots are developed and sold, \$95,625.
4. Turn over to the contractor, as lots are developed and sold, all of applicant's common stock.

The contractor would thus become sole stockholder of a water system with total utility plant estimated at \$343,000, of which about \$96,000 in cash and \$33,000 in plant had been provided by the developers. The contractor would provide the remaining \$214,000 of plant.

One of the developers and the contractor each testified that he would be opposed to any arrangement under which financing would be accomplished through advances for construction. The developers prefer to provide some \$129,000 in cash and assets not subject to refund, rather than to provide \$160,000 or less in advances required under the water main extension rule, even though the advances would be subject to refund over a period of years. The contractor would prefer to accept the developers' contribution to him as an individual, rather than to have the developers provide advances to what would be his wholly-owned water utility.

^{2/} Applicant contends that the agreement had not been disclosed previously, even to its attorney, because the parties were negotiating possible revisions. No revisions, however, were made.

The contributions in aid of construction by the developers would not result in a significantly different utility revenue requirement than the staff's proposed method of financing extensions beyond Unit No. 1 with advances for construction, provided the contributions in aid of construction appear as such in the utility's records. We therefore will give applicant the option of (1) following its main extension rule beyond the initial Unit 1 development or (2) excluding the entire future development of the remaining 249-acre Corral de Tierra Oaks Subdivision from the provisions of the main extension rule and showing the cash and assets provided by the developers as contributions in aid of construction to the utility. If the latter plan is adopted, it will be reasonable for applicant to reduce the contributions account by the amount of cash out-of-pocket losses it sustains during the estimated five-year development period. This is consistent with the staff's recommendation in Exhibit No. 3 that the developers underwrite applicant's out-of-pocket losses during the development period.

Affiliated Interests

Inasmuch as the contractor proposes to become sole owner of applicant's stock, there is not the customary balancing of interests in arriving at the cost of plant. Also, under the agreement between applicant, the developers and the contractor, the contribution of the developers is a fixed amount, regardless of the actual cost of facilities. As a temporary caretaker owner of the utility's stock, the developers' interest in the reasonableness of plant costs would be minimal. These factors make it essential that actual plant costs be scrutinized carefully by the Commission before authorizing the issuance of stock or approving

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the plant account entries to be shown on applicant's books. The order which follows requires full disclosure of actual plant costs.

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 by applicant.

2. The rates and charges authorized herein are reasonable and will not produce in excess of a reasonable rate of return on applicant's net investment in utility plant.

3.a. Upon filing the stipulations required by the order which follows, applicant will have the financial ability to acquire and operate a water system to serve the requested certificated area, of which Unit 1 as delineated on Exhibit No. 5, unless otherwise provided by supplemental order, shall be considered the initial development to which the main extension rule to be filed by applicant shall not apply.

b. The facilities proposed to be installed by applicant are adequate to serve the requested area and will conform to the requirements of General Order No. 103.

4. The exact location, size and type of utility facilities are subject to minor revisions.

5. Applicant's proposed initial depreciation rate of 3 percent is reasonable.

6. Applicant has not yet applied for a water supply permit from public health authorities.

7. Applicant has not yet submitted late-filed Exhibit No. 4, the franchise it anticipates receiving from Monterey County, nor filed a supplemental application to exercise such franchise.

8.a. Additional data as required by the order which follows is needed to determine the amount of securities which applicant properly may be authorized to issue.

b. Applicant has not shown how it will be able to provide continuous service to Unit 1 during shutdown of the proposed initial single source of supply for maintenance and repairs.

The Commission concludes that the requested certificate should be granted, subject to the filing of the stipulations set forth in the order which follows, but that the issuance of securities should be deferred until actual cost of utility plant is determined.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant Toro Water Service, Inc., a corporation, authorizing it to construct a public utility water system in Corral de Tierra Oaks Subdivision, Monterey County, as shown on the map, Exhibit "D", attached to the application.

2. After the effective date of this order applicant is authorized to file the schedules of rates set forth in Appendix A to this order, a tariff service area map clearly indicating the boundaries of the certificated area, appropriate general rules, and copies of printed forms to be used in dealing with customers. Such filing shall comply with General Order No. 96-A. The tariff schedules shall become effective on the fourth day after the date of filing.

3.a. Exercise by applicant of the authority granted by paragraph 2 of this order shall constitute acceptance by it of the right and obligation to furnish public utility water service within the area certificated herein. The authorities granted herein shall expire unless the designated tariff sheets are filed within one year after the effective date of this order.

b. Within ten days after service is first furnished to the public under the authority granted herein, applicant shall file in this proceeding written notice thereof to this Commission.

4. Applicant 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 is placed in operation under the authority granted herein, applicant shall file with this Commission two copies of such map.

5. Beginning with the year 1967, applicant shall apply a depreciation rate of 3.0 percent to the original cost of depreciable plant. Until review indicates otherwise, applicant shall continue to use this rate. Applicant shall review its 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 result 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.

6. Prior to the date service is first furnished to the public under the authority granted herein, applicant shall apply to the appropriate public health authority having jurisdiction for a water supply permit for the proposed system. A copy of the application shall be filed with the Commission within ten days thereafter.

7. When applicant has presented, as late-filed Exhibit No. 4 herein, a copy of the franchise issued by the Board of Supervisors of Monterey County, or submitted a supplemental application with copy attached, the Commission will issue a certificate of public convenience and necessity authorizing applicant to exercise such franchise upon such terms and conditions as the Commission may designate.

8. Within sixty days after the date of this order, applicant shall file in this proceeding a document executed by the real estate developer, the contractor installing the water system, and applicant, stipulating:

- a. Whether (1) the distribution mains, services and hydrants outside of Unit 1 of Corral de Tierra Oaks will be financed by developers' advances for construction in accordance with the uniform water main extension rule to be filed by applicant, or (2) a deviation from that rule is requested to permit the real estate developer to contribute the cash and other assets provided by the agreement, Exhibit No. 1, in lieu of providing the somewhat larger sums otherwise required as advances for construction.
- b. That authorized Commission personnel will be provided upon request with all necessary supporting data with which to verify actual cost of utility plant for purposes of establishing utility plant accounts and for issuance of securities.
- c. That issuance of applicant's securities will be deferred until actual cost of plant is determined by the Commission.

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- d. What means will be provided to supplement the initial single well supply of Unit 1 whenever that supply must be shut down for maintenance and repair of equipment, prior to completion of the entire system.

The effective date of this order shall be established by supplemental order upon applicant's compliance with paragraph 8 of this order.

Dated at San Francisco, California, this 21st day of MARCH, 1967.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The subdivision known as Corral de Tierra Oaks, and vicinity, located on the south side of State Highway 68, approximately 8 miles west of Salinas, Monterey County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 1,000 cu.ft. or less	\$ 6.00
Next 1,000 cu.ft., per 100 cu.ft.40
Over 2,000 cu.ft., per 100 cu.ft.30
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 6.00
For 3/4-inch meter	8.00
For 1-inch meter	10.00
For 1 1/2-inch meter	13.00
For 2-inch meter	16.00
For 3-inch meter	28.00
For 4-inch meter	42.00

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

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water service furnished to privately owned fire protection systems.

TERRITORY

The subdivision known as Corral de Tierra Oaks, and vicinity, located on the south side of State Highway 68, approximately 8 miles west of Salinas, Monterey County.

RATE

For each inch of diameter of service connection Per Month
\$1.50

SPECIAL CONDITIONS

1. The fire protection service connection shall be installed by the utility and the cost paid by the applicant. Such payment shall not be subject to refund.
2. The minimum diameter for fire protection service shall be four inches, and the maximum diameter shall be not more than the diameter of the main to which the service is connected.
3. If a distribution main of adequate size to serve a private fire protection system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served, then a service main from the nearest existing main of adequate capacity shall be installed by the utility and the cost paid by the applicant. Such payment shall not be subject to refund.
4. Service hereunder is for private fire protection systems to which no connections for other than fire protection purposes are allowed and which are regularly inspected by the underwriters having jurisdiction, are installed according to specifications of the utility, and are maintained to the satisfaction of the utility. The utility may install the standard detector type meter approved by the Board of Fire Underwriters for protection against theft, leakage or waste of water and the cost paid by the applicant. Such payment shall not be subject to refund.

(Continued)

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Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

(Continued)

SPECIAL CONDITIONS - Contd.

5. 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. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

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

TERRITORY

The subdivision known as Corral de Tierra Oaks, and vicinity, located on the south side of State Highway 68, approximately 8 miles west of Salinas, Monterey County.

RATE

Per Month

For each hydrant \$4.00

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. Cost of installation and maintenance of hydrants will be borne by the utility except when borne by a subdivider pursuant to utility's main extension rule.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. Fire hydrants shall be attached to the utility's distribution mains upon receipt of proper authorization from the customer who is to be responsible for payment of monthly charges. Such authorization shall designate the type and the size of hydrant and the specific location at which each is to be installed.
5. 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. 9MC

METERED CONSTRUCTION SERVICE

APPLICABILITY

Applicable to all water furnished for construction purposes.

TERRITORY

The subdivision known as Corral de Tierra Oaks, and vicinity, located on the south side of State Highway 68, approximately 8 miles west of Salinas, Monterey County.

RATE

All water delivered will be charged for at the rates set forth in Schedule No. 1, General Metered Service.

SPECIAL CONDITIONS

1. Applications for service under this schedule shall be made not less than 48 hours in advance of the time service is desired.
2. Applicants for service under this schedule shall be required to pay the costs of installation and removal and make such deposit as required by the utility's rule pertaining to temporary service.