

ORIGINALDecision No. 74677

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SIERRA HIGHLANDS WATER COMPANY, a)
 California corporation, for a)
 Certificate of Public Convenience)
 and Necessity to Construct a Public)
 Utility Water System near Coulter-)
 ville in Mariposa and Tuolumne)
 Counties and to Establish Rates for)
 Service and to Issue Stock.)

Application No. 50262
 (Filed May 23, 1968)

Hartley R. Appleton and T. C. Binkley, for
 applicant.
Ernest Geddes, District Attorney, Tuolumne
 County, interested party.
Tedd F. Marvin and A. L. Gielegem, for the
 Commission staff.

O P I N I O N

Applicant Sierra Highlands Water Company (hereinafter referred to as applicant or Sierra Highlands) requests a certificate of public convenience and necessity to construct and to operate a public utility water system in part of a land subdivision encompassing about 11,000 acres in Tuolumne and Mariposa Counties. Specifically, the application includes about 1,567 acres, containing 576 lots and parcels of varying sizes, in Unit No. 2 of the Lake Don Pedro subdivision. This unit is wholly within Tuolumne County in Sections 9, 16, 20, 21, 22 and 28 Township 3 South, Range 15 East Mt. Diablo Base and Meridian. It is in the southeasterly portion of the Lake Don Pedro development, as shown on the map, Exhibit D attached to the First Amendment of the application. In addition, applicant requests authorization to enter into a main extension agreement in order to finance the in-tract water system in the west portion of the unit.

The capital requirement for financing the facilities to be covered by the certificate (i.e. supply main, backup system and the easterly portion of the unit) is \$550,000. This sum is to be raised from the proceeds of the issuance and sale of common stock. The balance of the in-tract system in Unit No. 2 will be financed by a main extension agreement between applicant and Pacific Cascade Land Company, Inc. (Pacific) in the amount of \$225,000. Sierra Highlands requests authority to issue 5,500 shares of common stock with par value of \$100.00 per share. These shares will be issued as follows:

5,300	shares	to	Pacific Cascade Land Co., Inc.
100	"	"	Hartley R. Appleton
100	"	"	Thad C. Binkley

Applicant proposes to maintain its management headquarters in the office of Thad C. Binkley Associates in San Jose, with billing done through this office. It is stated that members of this firm have forty years' experience in the water utility business. Plant operations will be under the direction of a resident manager living in the tract, operating out of a local office in his home. After a commercial center is developed in the tract an office will be established and the staff augmented as necessary.

The landowner and developer of the project is Pacific, a Delaware corporation with principal offices at 311 MacArthur Boulevard, San Leandro, California. Pacific is a wholly owned subsidiary of Boise Cascade Corporation of Boise, Idaho, and it is to be the principal stockholder in applicant and the other party to applicant's extension agreement.

The terrain in Unit No. 2 is typical Sierra Foothill uninhabited grazing land and it lies between elevation 900 and 1100. It

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will ultimately be divided into 576 lots and parcels, including some 14 acres set aside for apartments and commercial development. The lots will be sold without homes. The development is designed primarily towards second homes for recreational purposes.

The water systems closest to this tract are those in Waterford and Hickman, Stanislaus County, some 23 miles west of the project. They are served by the Del Este Water Company of Modesto. A copy of the application was furnished to the Del Este Company and also to the Boards of Supervisors of Mariposa and Tuolumne Counties. Applicant states that no county franchises are required.

After consultations with the staff applicant filed three amendments to its proposal, and public hearings were held before Examiner Foley on July 29 and 30, in San Francisco.

Water Supply

Water for this system will be purchased from the Merced Irrigation District (District) and will be pumped from Lake McClure to a treatment plant and then to a distribution reservoir at the subdivision site. The purchase agreement is between Pacific and the District for a maximum of 5,000 acre-feet per year of surplus water. Applicant states that the agreement will be assigned to it. This assignment should be made before any tariffs are filed. Pursuant to Sections 22259 and 22260 of the Water Code this agreement was submitted to and approved by the California Districts Securities Commission on April 19, 1968.

Applicant further states that while the agreement is for surplus water because the development is outside the District's boundaries the supply is nevertheless adequate and firm. The capacity of Lake McClure is 1,026,000 acre-feet. The District is said to have ample water rights and an extensive ground water basin, including 108 wells, to cover any shortage. Staff agrees that Sierra Highlands' water supply is adequate.

Water System

Applicant plans to have a total capitalization of \$550,000, by issuing 5,500 shares of common stock with a par value of \$100 per share. Pacific would be issued 5,300 of these shares. With this amount of capitalization Sierra Highlands plans to use \$440,000 to construct the backup facilities to serve the entire Lake Don Pedro project, consisting of 11,000 acres and some 5,000 lots. With the remaining \$100,000 (plus approximately \$10,000 for contingencies), Sierra Highlands will construct the in-tract distribution system for the east portion of the certificated area of 550 acres divided into 282 lots.

Plans for the backup system, as revised after consultations with the staff, call for the installation of 18,000 feet of 12-inch main from Lake McClure to the central distribution reservoir located in the south end of Unit No. 2. Pressure type filters located at lakeside, a booster pump and a submersible pump will transmit treated water to the development. Some 15,000 feet of 10-inch main extending the length of Unit No. 2 for later extension to supply future units to the north will be installed. Water mains of the appropriate size for in-tract facilities will be installed in the streets. All construction is to be performed under competitive bids by independent contractors. Pacific, upon the request of the Tuolumne County Health Department, has acquired a performance bond from the General Insurance Company of America in favor of Tuolumne County in the amount of \$790,000 covering the construction of both the backup and in-tract facilities (Exhibit No. 11).

Applicant's estimated utility plant cost, segregated to the Commission's Uniform System of Accounts for Water Utilities, (Class A, Class B and Class C) is shown as follows:

ESTIMATED UTILITY PLANT

1. Backup facilities for initial stage of plant to serve entire project

<u>Ac. No.</u>	<u>Account</u>	<u>End of First Year (1971)</u>
301	Intangible Plant	\$ 22,000
306	Land and Land Rights	3,500
317	Source of Supply	15,000
324	Pumping Equipment	12,000
331	Structures and Improvements	22,500
332	Treatment Plant Equipment	57,500
342	Reservoirs	34,500
343	Water Mains - Transmission and Supply	261,800
372	Office Furniture	1,000
373	Transportation Equipment	4,000
374	Other Equipment	2,000
120	Working Cash	2,000
131	Materials and Supplies	2,500
	Total Backup Capital	\$440,300
	Average (Based on 5,000 Lots)	\$ 88.00

2. Capital Requirement - Certificated Area - Per Lot

(a) In-Tract System:

343	Water Mains	\$ 88,700
345	Services	5,100
346	Meters	1,000
348	Fire Hydrants	6,000
	Total In-Tract Capital	\$100,800
(b)	Backup - 282 Lots @\$88.00/lot	24,800
	Total	\$125,600
	Total Per Lot	\$ 445

3. Total Capital Requirement - Certificated Area

Backup Plant	\$440,300
In-Tract System	100,800
	<u>\$541,100</u>
Contingencies	8,900
Total Initial Capital Requirement	<u>\$550,000</u>
Nondepreciable Items	\$ 30,000

4. Depreciable Capital

	\$520,000
Depreciation Reserve, First Year @2.6%	\$ 13,500

After consultation with staff applicant amended its original application in order to provide that service to the west portion of Unit No. 2 will be achieved through a main extension agreement. Pacific and applicant have agreed that this extension agreement will amount to \$225,000 or such other sum as may be required to complete the water system in Unit No. 2. Expansion to other units in the subdivision will also be done by extension agreements. The staff is agreeable with this proposal.

Applicant expects to commence service sometime in late 1969 or in 1970 with the year 1971 scheduled as the first full year of operation of the complete system. (Applicant states that Pacific intends to sell all 5,000 lots in the entire subdivision of some 11,000 acres by the end of 1970.) Operating deficits are predicted for the first five years as applicant foresees having 150 connected consumers in 1971, 660 in 1975 and 1,400 in 1980 in the entire subdivision. Taxable income is not expected until 1976.

At the hearing staff expressed disagreement as to whether 1,400 out of some 5,000 lots (30 percent) would be improved and connected to Sierra Highlands by 1980. While not opposing applicant's application in any way staff expressed the view that only 340 lots out of the 5,000 lots (7%) would be built on at that time. The staff's opinion was based upon a study of 18 recreational type and 20 small town water utilities certificated between 1955 and 1962. The study showed that an average of only 13 percent of the lots in a recreational type development would be built upon and connected to the typical public utility water system after 10 years. The staff witness did agree, however, that if applicant's projection was realized 1,400 connected ratepayers would probably be the break-even point insofar as revenues and costs are concerned.

Applicant's witnesses, however, testified that its past experience justified the 30 percent estimate; that Pacific's parent company, Boise Cascade Corp., is in the home construction business and that in order to encourage the home construction business in the area Pacific is preparing plans for about 20 model homes; that Pacific was acquiring additional land in the area for development purposes; that recreational and commercial developments are planned and will require water; and that other developments which may require water service from Sierra Highlands are expected to occur in the area. Applicant's project manager testified that he expected a gradual build up. He stated that the water company's estimates were conservative in that by the sixth year it expects 16 percent of the lots to be connected to the system while the staff's study demonstrated that the 18 recreational water companies' experience indicated an average of 20 percent by that time. While it appears that applicant's estimate of 1,400 connected customers by 1980 is probably optimistic we will accept it because its projection for the first six years is conservative and below the average recreational utility customer - lot ratio shown in the staff study.

Financing Agreement

Sierra Highlands expects that operating expenses will exceed revenues (including the estimated \$12,000 annual fire hydrant rental income) for the first two years of full operations, i.e. 1971 and 1972 (Table IV, Second Amendment to Application). It does not expect any net income after taxes, however, until 1976. And in 1981, after ten years of operations, even while it expects net income of \$23,000 it does not expect to have its depreciation allowance fully covered.

In light of these expectations applicant and Pacific have entered into a Water System Financing Agreement. By this agreement Pacific obligates itself to guarantee for a ten-year period commencing from 1971, the first year of full operations, "any and all operating deficits" up to a limit of \$100 per lot for each lot sold by Pacific, or the actual losses sustained by the water utility, whichever amount is less. In addition Pacific has agreed to pay the inclusion fee of \$15 per acre charged by the Merced Irrigation District, and to assign the water supply contract to Sierra Highlands.

Applicant's attorney further stated that this agreement was not merely a typical third party guarantor arrangement, but instead it encompassed a joint control arrangement between Pacific and Sierra Highlands (R.66-7), in that Sierra Highlands will have full control of the construction, maintenance and operation of the utility plant while Pacific will be assured that all the funds provided by it are properly expended on the utility project. The exact nature of the joint control arrangement is to be worked out by the parties.

After discussions with the staff Sierra Highlands stated that it and Pacific agreed to a modification of the financing agreement to increase the amount of the guarantee per lot sold to \$200 for Units Nos. 2 and 3 (R.127). The total obligation assumed by Pacific for the entire development of 5,000 lots would be \$500,000, or \$100 per lot. Under this increase it is reasonable to expect that the operating deficits of any year will be covered.

In order to demonstrate that Pacific will fulfill its obligation under the financing agreement a letter of commitment from the General Insurance Company of America (General) was introduced at the hearing (Exhibit No. 12). It states that General has agreed to execute a surety bond with Pacific as principal and Sierra Highlands as obligee in the amount of \$235,000. This bond covers Units Nos. 2 and 3 only, and additional bonds will be acquired by Pacific as additional units are developed until the maximum amount of Pacific's obligation (i.e. \$500,000) is attained. The letter provides that the bond can be delivered at any time upon the request of Sierra Highlands and after any final modifications, such as the increase in the per lot guarantee for Units Nos. 2 and 3 to \$200, which are made by Pacific and applicant. The term of the bond is for 10 years beginning December 31, 1971.

It is important that Highlands, Pacific and the bonding company understand and agree that this Commission may, in the exercise of its comprehensive regulatory authority, require Highlands to seek its guaranteed reimbursement of operating deficits or losses from the bonding company should Pacific fail to reimburse Highlands for each of the ten years, 1971 through 1980, on the basis that reimbursement is due each year on the date Sierra Highland's annual report to the Commission is due to be filed.

Applicant also forecasts \$12,000 annual income from rental fees for fire hydrants. This figure is based upon an estimate that 500 fire hydrants will be installed and that a rental charge of \$2 per month per hydrant will be made. Applicant states that its estimate of 500 hydrants is conservative in that county regulations may require closer spacing than one hydrant for every ten lots. While no public fire district is presently formed in the subdivision area, Pacific's project manager for Unit No. 2 testified that plans for such a district are presently before the county. The proposed district would include fire protection, police protection and garbage disposal service.

Applicant also stated that refunds to Pacific under any main extension agreements would be delayed until Sierra Highlands has an adequate operating surplus, or that such reimbursement would be made with stock so as not to drain the utility's cash surplus. Sierra Highlands requests that the refund condition be included in the Commission's order granting a certificate.

In view of this surety bond arrangement and its 10 year term we believe that applicant and the public are adequately protected. Pacific's Secretary and General Counsel testified that its interest in and plans for the area are long term. It was stated that Pacific had taken options on an additional 5,000 acres in the area, and that developments by other persons could reasonably be expected.

Rates

Sierra Highlands amended its application with regard to the rates to be charged, and it now proposes to charge the following rates:

ANNUAL METERED SERVICE

APPLICABILITY

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

TERRITORY

All territory served by Sierra Highlands Water Company in Mariposa and Tuolumne Counties, California.

RATES

Annual Service Charge:	<u>Per Meter Per Year</u>
For 5/8 x 3/4-inch meter	\$ 60.00
For 3/4-inch meter	66.00
For 1-inch meter	90.00
For 1-1/2-inch meter	126.00
For 2-inch meter	162.00

Quantity Rate:

Per 100 cu.ft.	0.30
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The Service Charge is applicable to all metered service. It is a readiness-to-serve charge to which is added the charge computed at the Quantity Rate, for water used during the billing period.

The Commission staff stated that it did not have any objections to these proposed rates.

The Commission finds that:

1. Public convenience and necessity require that the application be granted as set forth in the ensuing order.

2. Applicant and its stockholders possess the financial resources and knowledge to operate the proposed system.

3. The rates set forth in Appendix A attached hereto are just and reasonable for the services to be rendered.

4. The money, property or labor to be procured or paid for by the issuance of the stock herein authorized are reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the certificate should be granted, and that the main extension agreement applicable to the west portion of Unit No. 2 should be authorized, and that the proposed stock issue should be authorized subject to the terms and conditions imposed by the following order.

The certificate hereinafter granted shall be subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Sierra Highlands Water Company, authorizing it to construct and operate a public utility water system to serve Lake Don

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Pedro Unit No. 2 located in Tuolumne County east of the Don Pedro Reservoir, as delineated on the map Exhibit B, attached to the original application.

2.a. Applicant is authorized to execute the main extension agreement between itself and Pacific Cascade Land Company, Inc., in the amount of \$225,000, to finance the in-tract water system in the west portion of Unit No. 2.

b. Within ninety days after the effective date of the order herein applicant shall file a letter with the Commission which states that Pacific Cascade Land Company, Inc., has agreed not to require any cash reimbursement of funds advanced under the main extension agreement authorized herein, or any other main extension agreements authorized by the Commission in the future, until such time as applicant has on hand sufficient operating cash surplus to meet these reimbursement obligations.

3. Applicant is authorized to file, after the effective date of this order, the schedule of rates set forth in Appendix A to this order, a tariff service area map clearly indicating the boundaries of the certificated area, and the area included in the extension agreement authorized herein, 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 and shall become effective on the fourth day after the date of filing.

4. Within one year after the effective date of this order, applicant may issue not to exceed 5,500 shares of its common stock at \$100 par value per share.

5. Applicant shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

6. Compliance by applicant with paragraph 3 of this order shall constitute acceptance by it of the right and obligation to furnish public utility water service to the area certificated herein, including the area covered by the extension agreement authorized herein. The authority granted herein shall expire unless the designated tariff sheets are filed within eighteen months after the effective date of this order.

7. 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.

8. Beginning in the first year water system facilities are constructed applicant shall apply a depreciation rate of 2.6 percent per annum 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.

9. Applicant shall set up formal books of account in conformity with the applicable uniform system of accounts for water utilities prescribed by this Commission and record therein the appropriate charges to plant and other accounts.

10.a. Within ninety days after the effective date of this order applicant shall file with the Commission notice that it has acquired the written agreement of Pacific Cascade Land Company, Inc., to modify the guaranty for each lot sold from \$100 to \$200 for Units Nos. 2 and 3.

b. Within ninety days after the effective date of this order applicant shall file with the Commission a copy of the surety bond in the amount of \$235,000 acquired by Pacific Cascade Land Company, Inc., as principal, and naming applicant as obligee, as provided for in the Water System Financing Agreement, and as modified by the increase in the guaranty from \$100 to \$200 per lot sold in Units Nos. 2 and 3.

c. Concurrently with the filing of tariffs authorized herein applicant shall file notice with the Commission that in compliance with the Water System Financing Agreement applicant has received and accepted the assignment of the water supply contract between the Merced Irrigation District and Pacific Cascade Land Company, Inc.

11. Applicant shall prepare and keep current the system maps required by paragraph I.10.a of General Order No. 103. Within six months after the water system is placed in operation under the authority granted herein, applicant shall file with the Commission two copies of the maps.

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12. Applicant shall not extend nor furnish service outside of Lake Don Pedro Unit No. 2 without authority first having been obtained from this Commission.

The Secretary of the Commission is directed to furnish a copy of this decision to the California Department of Investment, Division of Real Estate.

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

Dated at San Francisco, California, this 11th
day of SEPTEMBER, 1968.

William Synovay, Jr.
President

Augusta
Fred P. Monahan
Commissioners

Schedule No. 1A

ANNUAL METERED SERVICE

APPLICABILITY

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

TERRITORY

All territory served by Sierra Highlands Water Company in Mariposa and Tuolumne Counties.

RATES

	<u>Per Meter</u> <u>Per Year</u>
Annual Service Charge:	
For 5/8 x 3/4-inch meter.....	\$ 60.00
For 3/4-inch meter.....	66.00
For 1-inch meter.....	90.00
For 1 1/2-inch meter.....	126.00
For 2-inch meter.....	162.00
Quantity Rate:	
Per 100 cu.ft.	\$.30

The Service Charge is applicable to all metered service. It is a readiness-to-serve charge to which is added the charge computed at the Quantity Rate, for water used during the billing period.

SPECIAL CONDITIONS

1. The annual service 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 service charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods. Meters will be read and quantity charges billed monthly, bimonthly or quarterly in accordance with the utility's established billing periods except that meters may be read and quantity charges billed during the winter season at intervals greater than three months.

(Continued)

Schedule No. 1A

ANNUAL METERED SERVICE

SPECIAL CONDITIONS (Continued)

2. The opening bill for metered service, except upon conversion from flat rate service, shall be the established annual service 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, organized fire districts and other political subdivisions of the State.

TERRITORY

All territory served by Sierra Highlands Water Company in Mariposa and Tuolumne Counties.

RATE

For each hydrant.....	<u>Per Month</u> \$2.00
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SPECIAL CONDITIONS

1. Water delivered for purposes other than fire protection shall be charged for at the quantity rates in Schedule No. 1, Metered Service.
2. The cost of relocation of any hydrant shall be paid by the party requesting relocation.
3. Hydrants shall be connected to the utility's system upon receipt of written request from a public authority. The written request shall designate the specific location of each hydrant and, where appropriate, the ownership, type and size.
4. The utility undertakes to supply only such water at such pressure as may be available at any time through the normal operation of its system.