

**ORIGINAL**Decision No. 75296

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 an )  
 extension of service. }

Application No. 50632  
 (Filed October 18, 1968)

Hartley R. Appleton, for applicant.  
Leonard L. Snaider, Counsel, Tedd F.  
Marvin and A. L. Gielegem, for the  
 Commission staff.

O P I N I O N

Sierra Highlands Water Company (hereinafter referred to as applicant or Sierra Highlands) requests authority to extend service to Unit No. 3 of Lake Don Pedro as shown in Exhibit A attached to the application. It also requests authority to execute a water main extension agreement with Pacific Cascade Land Company, Inc. (hereinafter referred to as Pacific), according to the terms as set forth in Exhibit B attached to the application.

A public hearing was held before Examiner Daly on December 9, 1968, at San Francisco, and the matter was submitted.

At the present time Boise Cascade Corporation of Boise, Idaho, through its wholly owned subsidiary Pacific, is developing a subdivision consisting of approximately 11,000 acres in Tuolumne and Mariposa Counties. The development is designed primarily towards second homes for recreational purposes. Although Pacific is the major stockholder of applicant, said stock has been made subject to a voting trust whereby the stock is voted by the officers of applicant, none of whom are either officers or directors of Pacific or Boise Cascade Corporation.

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By Decision No. 74677, dated September 11, 1968, in Application No. 50262, applicant was certificated to serve Unit No. 2 of Lake Don Pedro subdivision, which contains 576 lots. Said decision also restricted applicant from extending its service beyond Unit No. 2 without prior Commission authority.

Applicant now seeks to extend service to Unit No. 3 pursuant to a main extension agreement with Pacific. Unit No. 3 consists of approximately 1,470 acres divided into 568 residential lots; two parks, one school site and 17 acres of natural parks. The area will be served by 15.4 miles of road and 14.5 miles of water mains. The estimated increment to the plant account of applicant is \$540,000, which would be advanced by Pacific pursuant to the main extension agreement. The proposed extension includes not only the in-tract distribution mains but also includes a booster station 1/2 MGD capacity, and a 250,000-gallon storage tank for pressure equalization and one 500,000-gallon distribution reservoir.

Although applicant has not as yet completed construction of the in-tract facilities of Unit No. 2 nor certain backup facilities, which when completed will serve both Units Nos. 2 and 3, it is expected that said facilities will be completed by the end of 1969. It is also contemplated that approximately \$500,000 of the total cost of constructing Unit No. 3 will have been expended by the end of 1969.

A surety bond in the amount of \$540,000 has been deposited with the County of Tuolumne to assure construction of the water supply facilities within the extended area.

Operating deficits of applicant are to be reimbursed by Pacific pursuant to an agreement whereby Pacific obligates itself to guarantee for a ten-year period, commencing in 1971, the first

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year of expected full operation, "any and all operating deficits" up to an amount of \$100 per lot for each lot sold by Pacific, or the actual losses sustained by applicant, whichever amount is less. To assure that Pacific will meet its obligations under the agreement a surety bond has been executed with Pacific as principal, St. Paul Fire Marine Insurance Company as surety, and applicant as obligee. The bond is in the amount of \$235,000 and covers the period from 1971 through 1980.

The Hydraulic Branch of the Commission takes the position that as a matter of policy no extension should be authorized from a nonexisting system. It is of the opinion that the instant application is premature and should either be denied or granted only upon the condition that applicant first complete the proposed backup facilities, which would include the intake, transmission, treatment and storage facilities for Units Nos. 2 and 3. It is also of the opinion that it would be an imposition upon purchasers of the lots if they were required to wait almost two years for water service. The Commission's Finance and Accounts Division, however, does not oppose applicant's request on the basis of the above-stated policy, but takes the position that each case should be decided on its own merit, considering the nature and extent of financial guarantees provided by applicant to assure timely construction of an adequate water system, and to assure continued operation and service until the utility can reasonably be expected to be self-sustaining.

Applicant has been selling lots in Unit No. 2 for approximately two months and had sold all but 20 of them as of the time of hearing. It desires to commence the sale of property in Unit No. 3 as soon as possible. Applicant does not want to interrupt operations pending completion of the backup facilities, because any interference with the schedule of a large project would result in operational

difficulties and additional costs. Applicant argues that the developer is a reputable organization and every reasonable step has been taken to assure applicant's financial stability. Applicant further argues that there can be no undue delay in water service because all of its contractual commitments are directed towards completion of the backup facilities and most, if not all, of the in-tract facilities of Units Nos. 2 and 3 by December 31, 1969. The intake wells at Lake McClure are presently under construction (Exhibit No. 6) and applicant expects to accept bids for construction of the balance of the backup facilities by March 1969.

After consideration the Commission finds that:

1. Applicant is presently authorized to operate a public utility water service in Unit No. 2 of the Lake Don Pedro subdivision located in Tuolumne County; however, the water system in Unit No. 2 is presently in the process of planning.

2. Completion of the backup facilities and the in-tract facilities of Unit No. 2 is expected by December 31, 1969, with completion of the in-tract facilities of Unit No. 3 expected by the early part of 1970. Water service will be available to Units Nos. 2 and 3 by 1970.

3. Applicant has entered into an agreement with the County of Tuolumne to construct the water facilities relating to Unit No. 3 within a period of 24 months and has executed a bond in the amount of \$540,000 to assure said construction.

4. Applicant has an agreement with Pacific that assures its financial operations through 1980. The agreement is supplemented by a performance bond in the amount of \$235,000.

Substantial land investments have been made by Pacific in a long-range project, the success of which is essentially dependent upon an adequate water supply. The record demonstrates that applicant and Pacific have taken every step to demonstrate their good

intentions to install and operate a financially responsible service as soon as possible. Contracts for construction of the system have either been awarded or are in the process of being awarded in the near future. An agreement to construct has been entered into with the County of Tuolumne and a performance bond to assure such construction has been executed.

After consideration the Commission concludes that applicant should be authorized to extend its service to Unit No. 3 pursuant to the terms of the main extension agreement as set forth in Exhibit B attached to the application, subject to the conditions hereinafter set forth.

Applicant is hereby placed on notice that no further extension will be authorized until the backup facilities serving Units Nos. 2 and 3 have been completed.

O R D E R

IT IS ORDERED that:

1. Sierra Highlands Water Company is authorized to extend water service to Lake Don Pedro Unit No. 3 located in Tuolumne County east of the Don Pedro Reservoir, as delineated on the map, Exhibit A, attached to the application.

2.a. Applicant is authorized to execute the main extension agreement between itself and Pacific Cascade Land Company, Inc., in the amount of \$562,050 to finance the in-tract water system of Unit No. 3 including approximately 190 meters at a cost of \$7,000, backup facilities in the amount of \$2,000 and compensation of \$22,050 payable to Merced Irrigation District upon the condition that pending completion of the backup facilities of Units Nos. 2 and 3 all sales agreements and promotional literature relating to the

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sale of said property shall contain notice to the effect that water service is not presently available.

b. In view of the requirement of ordering paragraph 2.b of Decision No. 74677, dated September 11, 1968 in Application No. 50262, applicant is hereby authorized to implement refunds on main extension contracts held by an affiliate by issue of stock or by credits to Capital or Paid - In Surplus, in lieu of cash refunds, in accordance with the terms of letters of agreement between Pacific Cascade Land Company dated November 4, 1968 and Sierra Highlands Water Company dated November 5, 1968 filed with the Commission.

c. Applicant is authorized to deviate from its filed main extension rule to include under the 22 percent of revenue refund provision meters, backup facilities and compensation payable to the Merced Irrigation District.

3. 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 authorized herein. Such filing shall comply with General Order No. 96-A. The effective date of the revised tariff sheets shall be four days after the date of filing.

4. Compliance by applicant with paragraph 3 of this order shall constitute acceptance of the right and obligation to furnish public utility water service to the area covered by Unit No. 3. The authority granted herein shall expire unless said notice is filed within eighteen months after the effective date of this order.

5. 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 with this Commission.

6. Applicant shall complete construction of the backup facilities serving Units Nos. 2 and 3 by December 31, 1969, and within ten days thereafter shall file with this Commission a notice of completion relating thereto.

7. 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.

8. Applicant shall not extend facilities or offer to serve any areas outside of Lake Don Pedro Units Nos. 2 and 3 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 twenty days after the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of FEBRUARY, 1969.

William Lynum, Jr.  
President  
Richard P. Monissey  
John H. [Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.