

ORIGINAL

Decision No. 75334

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 grant-)
ing a certificate of public con-)
venience and necessity to con-)
struct 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)

SUPPLEMENTAL OPINION

Decision No. 72192, dated March 21, 1967, granted a certificate of public convenience and necessity to applicant Toro Water Service, Inc., to construct a public utility water system but deferred action on applicant's requests for a certificate to exercise a county franchise and authority to issue stock.

County Franchise

Paragraph 7 of the order in Decision No. 72192 provides:

"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, ..., 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."

Applicant has submitted a copy of the franchise, which copy hereby is received as Exhibit No. 4. The franchise covers only the certificated area and includes typical provisions such as a 5-year moratorium on the effectiveness of the 2-percent-of-gross-revenue franchise tax. ✓

Securities

Decision No. 72192 gave applicant the option of (1) installing the facilities for the 67-acre initial unit of the certificated

area with its own funds and later extending into the rest of the 316-acre development by means of subdivider's advances in accordance with applicant's main extension rule, or (2) deviating from the main extension rule by permitting the real estate developer to contribute a portion of the plant in both the initial unit and subsequent extensions, essentially in accordance with the terms of an agreement, Exhibit No. 1, presented by applicant. Inasmuch as the proposed contributions for the entire development were estimated to be over 80 percent as great as the estimated refundable advances otherwise would have been, the Commission then concluded, and still concludes, that the proposed deviation would not have an adverse effect on applicant's customers.

The conclusion as to the reasonableness of the proposed deviation was and is predicated upon the proviso that the contributions in aid of construction appear as such in the utility's records. This proviso is necessary because the agreement presented as Exhibit No. 1 results in a contribution to applicant's proposed sole stockholder, rather than directly to applicant. Because of the alter ego relationship, we considered, and still consider, the contribution to applicant's sole owner to be the same as a contribution to applicant. The subdivision developer, applicant and applicant's proposed sole stockholder each request the proposed deviation.

Decision No. 72192 required applicant to present a joint stipulation by the real estate developer, the contractor installing the water system, and applicant that authorized Commission personnel would 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. The required stipulation was filed and, pursuant thereto, the Commission

staff has determined the cost of plant installed for Unit No. 1, and the portion of that cost contributed by the developers. The portion not contributed by the developers represents a reasonable basis for issuance of applicant's capital stock.

A staff memorandum, dated January 15, 1969, hereby received as Exhibit No. 6, sets forth the appropriate amounts to be entered in applicant's plant accounts and shows the amounts of contributions in aid of construction. The contributions are broken down between depreciable and nondepreciable plant so that proper portions of total depreciation accruals can be treated as depreciation expense. The staff's conclusions are summarized in the following table:

<u>Ac.No.</u>	<u>Description</u>	<u>Amount</u>
290	Preliminary Survey & Inspection	\$ 136.00
301	Intangible Plant	205.00
306	Land	5,541.35
315	Wells	11,892.00
324	Pumping Equipment	3,970.75
342	Reservoirs and Tanks	4,846.32
343	Trans. & Distr. Mains	27,643.24
345	Services	4,914.13
346	Meters	962.31
347	Meter Installation	135.25
348	Hydrants	<u>2,728.96</u>
		62,975.31
	Recapitulation:	
	Contributed:	
	Land	\$ 5,541.35
	Material	<u>31,007.48</u>
		36,548.83
	Noncontributed	<u>26,426.48</u>
	Total	62,975.31

As additional plant is installed for subsequent units of the 316-acre certificated area, further determinations by the Commission staff of actual costs and contributions may be requested by applicant and, based upon those determinations, the issuance of appropriate additional amounts of securities may be authorized by supplemental order herein. Also, as provided in Decision No. 72192, if

applicant sustains a bona fide cash out-of-pocket net loss for the first five years of its operations, adjustment of the contributions account may thereafter be authorized pursuant to that decision.

Findings and Conclusion

The Commission finds that:

1. Public convenience and necessity require the exercise by applicant of its county franchise.

2. The money, property or labor to be procured or paid for in part by the issue of the stock herein authorized is 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.

3. Based upon Exhibit No. 6, the proper plant balances and contributions in aid of construction, relating to Unit No. 1 of applicant's system, are as heretofore set forth in this opinion.

4. The contributions in aid of construction set forth in the contract, Exhibit No. 1, in lieu of the advances for construction required by applicant's main extension rule, are not adverse to the public interest, when such contributions are treated as contributions to the utility, rather than to its sole stockholder.

The Commission concludes that the remaining requests in this application should be granted at this time to the extent set forth in the order which follows.

SUPPLEMENTAL ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant Toro Water Service, Inc., authorizing it to exercise the

rights and privileges of the franchise granted by Ordinance No. 1563, adopted September 12, 1967, by the Board of Supervisors of the County of Monterey.

2. a. Applicant may issue not to exceed \$26,426 par value of its capital stock for the purposes set forth herein.

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

3. Applicant shall reflect in its books the plant account balances and contributions in aid of construction, relating to Unit No. 1 of its system, set forth in the foregoing opinion.

4. In providing service to Corral de Tierra Oaks Subdivision, applicant's present certificated area, applicant may accept the contributions in aid of construction set forth in the agreement, Exhibit No. 1, in lieu of the advances for construction otherwise required by applicant's main extension rule.

The effective date of this order shall be twenty days after the date hereof unless applicant, prior to that effective date, files a petition in this proceeding disputing the amounts developed in Exhibit No. 6 and requesting further hearing. In that event, the effective date of this order or an amended order will be established in a subsequent decision.

Dated at Los Angeles California, this 18th day of FEBRUARY, 1969.

William Symon, Jr.
President

Augustus [unclear]

Fred P. Monsey

[unclear]

Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.