

ORIGINALDecision No. 75925

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Ex Parte
Application of WEST COVINA-
WALNUT WATER COMPANY, a corpora-
tion, for an order granting a
Certificate of Public Convenience
and Necessity, and for authority
to Construct and Operate a Public
Utility Water System in Los
Angeles County, California, and
to establish water rates for
water service, and for authority
to Issue Securities and Evidence
of Indebtedness.

Application No. 48522
(Filed May 31, 1966)

In the Matter of the Application
of SUBURBAN WATER SYSTEMS, a
California corporation, for a
certificate of public convenience
and necessity to extend its water
system operations, Los Angeles
County.

Application No. 49007
(Filed December 6, 1966)
(Amended March 2, 1967)

In the Matter of the Application
of SUBURBAN WATER SYSTEMS, a
California corporation, for permis-
sion to issue \$880,000 of its shares
of common stock.

Application No. 49708
(Filed October 4, 1967)
(Amended August 23, 1968)

A P P E A R A N C E S

(In Applications Nos. 48522 and 49007, see
Decision No. 72784, dated July 18, 1967.)

(In Application No. 49708, see below:)

Guy & Smith, by Arthur D. Guy, Jr.,
Walker Hannon; C. H. Smith;
and Dean Witter & Company, by
George M. Bradford, for applicant.
Roe & Kellas, by Chris S. Rellas,
for West Covina-Walnut Water
Company; and Kenneth I. Mullen,
for City of West Covina,
interested parties.
Raymond E. Heytens and L. M.
Van Zandt, for the Commission
staff.

O P I N I O N

Following public hearings on Applications Nos. 48522 and 49007 in December 1966 and March 1967 (six days' total), Decision No. 72784, dated July 18, 1967, ensued. Following the filing of Application No. 49708, hearing on said application was held on December 6 and 7, 1967, and the matter was submitted. By Decision No. 74481, dated July 30, 1968, submission of Application No. 49708 was set aside; adjourned hearings were set for and held on the instant applications on August 21 and 22, 1968; and a further hearing was held on December 19, 1968, all before Examiner Warner at West Covina.

At the December 1968 hearing and at the request of the parties, the matter was continued to a date to be set in order to provide West Covina-Walnut and Suburban an opportunity to reach an agreement on the terms of a contract by which Suburban would serve the Ahmanson-Home's proposed 3,475-acre development in rolling hills territory in the Cities of West Covina and Walnut, pursuant to the findings and orders in Decisions Nos. 72784 and 74481, supra, and pursuant to the Commission's water main extension Rule No. 15. At said latter hearing, the parties were directed by the presiding officer to consult with the Commission staff on all phases of the proposed agreement, and to keep the Commission informed of developments as they occurred.

Lacking any written communication regarding the status of the proceedings, except a copy of a letter dated December 31, 1968, from Suburban's executive vice-president to West Covina's

counsel, which said copy was requested in February 1969 by telephone to Suburban by the presiding officer, further hearing was set for and held on May 27, 1969, before Examiner Warner at West Covina.

The copy of the above-referred to letter was received as Exhibit No. 30 at the May 1969 hearing, but neither West Covina-Walnut nor Suburban offered additional evidence. West Covina-Walnut's counsel stated, among other things, that after having immediately submitted Suburban's offer to the Ahmanson-Home's principal executive (William H. Ahmanson succeeded his uncle, H. F. Ahmanson, as chief executive officer of the Ahmanson-Home interests after the latter's death on June 17, 1968^{1/}), he had had no response (nor had Suburban); no agreement had been reached; and none was possible. At the said latest hearing, West Covina-Walnut's counsel requested a 30-day continuance to develop and prepare additional evidence. Suburban's counsel moved that West Covina-Walnut's application be denied for lack of prosecution; suggested that Suburban's application for a certificate of public convenience and necessity to install and operate a water system to serve the Ahmanson-Home properties would then be moot and should be dismissed; and requested that Suburban's application to issue shares of common stock be considered separately.

In July 1967, by Decision No. 72784, supra, in Finding No. 1, the Commission found, among other things, that development of the Ahmanson-Home properties was at that time being deterred because of the unsettled condition in the real estate market, and

^{1/} Camille A. Garnier, Suburban's president, died on November 8, 1968.

Home's construction and development plans and schedules were not firm or final.

In Finding No. 16 of Decision No. 72784, the Commission found that public convenience and necessity would require the construction and operation of a water system for sale of water to the general public in the requested area.

Findings

The Commission finds that:

1.a. Since July 1967, the record herein has not been augmented with any additional evidence that would cause the Commission to change its Finding No. 1 of Decision No. 72784.

b. The plans of the applicant, West Covina-Walnut Water Company, and its developing parents, H. F. Ahmanson & Company and Home Savings and Loan Association, are indefinite.

c. Finding No. 16 of Decision No. 72784 is no longer valid; more than three years having passed with no development of the Ahmanson-Home properties, and none in prospect.

d. No public convenience and necessity exists which would require the granting of a certificate of public convenience and necessity to construct and operate a public utility water system to serve the Ahmanson-Home properties, as requested by Application No. 48522 of West Covina-Walnut Water Company.

2.a. Application No. 49007 of Suburban Water Systems is contingent on the development of the Ahmanson-Home properties in the Cities of West Covina and Walnut.

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b. No public convenience and necessity exists which would require the granting of Suburban's application to serve the Ahmanson-Home properties in the Cities of West Covina and Walnut.

3.a. Although requested by the presiding officer to provide the Commission details of the proposed disposition of the proceeds from the sale of common stock for not less than \$880,000, pursuant to Article 8, Rule 33, of the Commission's Rules of Practice and Procedure, no such information or evidence has been submitted by Suburban.

b. The public interest does not require the granting of Application No. 49708, as amended, of Suburban Water Systems to issue \$880,000 of its shares of common stock for general corporate purposes, including the retirement of short-term bank loans and the construction of plant not necessarily to be identified with that which might be required by the granting of Application No. 49007.^{2/}

Conclusions

The Commission concludes that:

1. Due to the protracted extent of the hearings on these matters since December 1966 through May 1969 and their unproductive nature, the request of West Covina-Walnut Water Company for a 30-day continuance should be denied.

^{2/} In Application No. 49708 as originally filed, Suburban sought authority to issue \$880,000 of common stock to finance its proposed water system extension to serve the Ahmanson-Home properties pursuant to Suburban's Application No. 49007.

2. West Covina-Walnut Water Company's application for a certificate of public convenience and necessity and for authority to issue securities and evidence of indebtedness should be denied without prejudice.

3. The application of Suburban Water Systems for a certificate of public convenience and necessity is moot and should be dismissed.

4. The application of Suburban Water Systems for permission to issue common stock is without supporting evidence and should be denied.

5. When development plans have been made firm by the Ahmanson-Home interests, new applications may be made by the parties based on conditions and proposals as they may then exist. Also, the record in the instant proceedings may be incorporated therein by reference if appropriate.

O R D E R

IT IS ORDERED that:

1. The request of West Covina-Walnut Water Company for a 30-day continuance of hearings on its Application No. 48522, filed May 31, 1966, is denied.

2. Application No. 48522 of West Covina-Walnut Water Company is denied without prejudice.

3. Application No. 49007 of Suburban Water Systems is dismissed.

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4. Application No. 49708 of Suburban Water Systems is denied.

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

Dated at San Francisco, California,
this 15th day of JULY, 1969.

President
Auzan

William Symons, Jr.

Fred P. Morrissey

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.