

ORIGINAL

Decision No. 76347

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
SQUIRREL MOUNTAIN WATER COMPANY, a)	Application No. 51018
California corporation, for autho-)	(Filed April 21, 1969;
rity to extend service.)	Amended August 15, 1969)

O P I N I O N

Squirrel Mountain Water Company, by application amended to request a certificate to exercise a county franchise (Public Utilities Code, Sec. 1002), seeks authority to extend facilities and service to Tract 3106, contiguous to its existing service area near Lake Isabella, Kern County. Specific authority, not normally required for extensions to contiguous territory (Public Utilities Code, Section 1001), is necessary here because prior restrictions forbid extensions beyond - and limit the number of customers to be served within - applicant's existing service area, Tracts 2074, 2103 and 2542 (Decision No. 68604, dated February 16, 1965, Application No. 46572).

A joint staff report, dated August 8, 1969, based on financial and engineering data obtained during field investigations in May and June, 1969, describes applicant's system, affiliations, service, financial problems and past failures to comply with Commission orders. The report recommends certain physical improvements, financial procedures and other items as preconditions to making effective the requested relief. The report is adopted and is hereby included in this record as Exhibit 1.

Applicant, after reviewing the report, transmitted certain documents and stated it had no objection to the staff's recommendations. The submitted documents called for by the staff's suggested

ordering paragraphs 8(a) and 8(d) are hereby included in this record as: Exhibit 2 - main extension agreement, dated August 13, 1969, and assignment, dated September 12, 1969 (par. 8(a)), and Exhibit 3 - operating loss reimbursement and special improvement fund agreement, executed August 13, 1969, by the developer and the utility (par. 8(d)). The August 13, 1969 main extension agreement, Exhibit 2, however, was executed on applicant's form for special facilities, instead of the appropriate form for a main extension to serve a subdivision as contained on applicant's filed Tariff Sheet No. 57-W. This agreement should be re-executed on the correct form and re-assigned on a form similar to the assignment dated September 12, 1969. The staff's suggested ordering paragraph 8(c) which requires that applicant coat, wrap and bury 5,276 feet of exposed 3-1/4-inch steel transmission main between its spring source of supply and its distribution system in Tract 2542, or replace it with pipe recommended by its consulting engineers in their 1964 and 1968 reports, contemplates completion of a long-deferred transmission main improvement, ordered by Decision No. 68604, supra, to conform to minimum requirements of General Order No. 103.

The staff report (Exhibit 1, par. 21) notes that, in view of applicant's past disregard of Commission decisions designed to upgrade the system at least to required minimum standards, a grant of the requested authority should be accompanied by an order to establish a fund in an amount sufficient to pay for required improvements, at such times as the Commission concludes they should be made, and for estimated out-of-pocket operating losses of about \$8,710 (\$75 for each of the 119 lots in Tract 3106) during the next 11-year growth period in the proposed service area, estimated by applicant to be at the rate of about three customers per year. The

developer (A. Leggio and Sons, a limited partnership which owns 100 per cent of the outstanding shares of the utility) plans future development of more tracts adjacent to applicant's present and proposed service area within the next two years.

The loss reimbursement and improvement fund agreement, mentioned above, appears to incorporate substantially the staff's recommendations. The agreement recites, in part, that the developer, contemporaneously with execution thereof, agrees to deliver to the utility 15 units of Municipal Investment Trust, Series P, having, as of August 13, 1969, a value of \$15,000, and agrees to pay to the utility subsequent amounts of \$75 per lot upon the sale or transfer by the developer of each lot in Tract 3106. All funds paid to the utility pursuant to the agreement are to be deposited in a separate interest bearing account in a bank or savings and loan association.

The field investigations disclosed that the facilities installed by the developer in Tract 3106, costing \$30,325, meet the requirements of General Order No. 103, and that applicant's source of supply and determination of water requirements for the present and proposed service areas are adequate for present needs and saturation growth. Accordingly, no present need appears to exist for continuing the restriction, imposed by ordering paragraph 6 of Decision No. 68604, supra, that limited the number of customers to 150 because of previous inadequate water supply. The staff report so recommends (Exhibit 1, suggested ordering paragraph 1).

The franchise for which applicant requests a certificate (Ord. No. F-102, adopted October 10, 1967, by the Kern County Board of Supervisors), is a 20-year, nonexclusive, renewal franchise to construct and operate water pipelines and appurtenances in and under all public highways in unincorporated county territory generally in

the Kernville area. The ordinance became effective on November 9, 1967. It provides for percentage payments from annual gross receipts and gross earnings collected or received by applicant during the franchise term, such payments to be in accordance with the terms and provisions of Ordinance No. F-3, the county's general franchise ordinance. Applicant alleges that in order to continue to serve Tracts 2074, 2103 and 2542 and also to serve Tract 3106, it is necessary for it to exercise the right or privilege granted by the above-mentioned franchise. Applicant further alleges that there are no other utilities, persons, or entities with which applicant is likely to compete in the exercise of that franchise.

The Commission, upon consideration of the application herein, as amended, together with the exhibits mentioned above, finds that:

1. Applicant's proposal to extend water facilities and service to Tract 3106, Kern County, subject to the recommendations set forth in paragraph 25 of the staff's report, Exhibit 1 herein, is reasonable.

2. Public convenience and necessity require the exercise by Squirrel Mountain Water Company, a corporation, of the rights and privileges granted in the franchise conferred by Ordinance No. F-102 of the Board of Supervisors of the County of Kern.

The Commission, therefore, concludes that the application, as amended, should be granted in accordance with the terms and provisions of the order which follows.

A public hearing is not necessary.

O R D E R

IT IS HEREBY ORDERED that:

1. Ordering paragraph 6 of Decision No. 68604, dated February 16, 1965, in Application No. 46572 is rescinded.

2. Applicant is authorized to extend contiguously its facilities to furnish water service in Kern County Tract 3106, as delineated on a portion of the map attached to the application.

3. Applicant is authorized to file after the effective date of this order a tariff service area map clearly indicating the boundaries of Kern County Tract 3106. Such filing shall comply with General Order No. 96-A and shall become effective on the fourth day after the date of filing.

4. 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 Kern County Tract 3106. The authority granted herein shall expire unless the designated tariff sheets are filed within one year 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 to this Commission.

6. Applicant shall finance all intract facilities in accordance with its filed tariff Rule No. 15, Main Extensions, and related main extension contract form.

7. Applicant shall re-execute its main extension agreement with the developer of Tract No. 3106 (Exhibit 2 herein) on its main extension contract form for extensions to serve subdivisions (Filed Tariff Sheet No. 57-W). A copy of the re-executed agreement, together

with a copy of an assignment thereof in language similar to that of the assignment of September 12, 1969, shall be transmitted to the Commission.

8. Applicant shall not extend its facilities or offer to provide service outside of Kern County Tracts 2074, 2103, 2542 and 3106 without further order of the Commission.

9. Applicant is authorized and directed to carry out the terms and conditions of its agreement with the developer, A. Leggio & Sons, dated August 13, 1969 ("Loss Reimbursement Agreement", Exhibit 3 herein). Applicant shall provide developer with a statement not later than March 31 each year, detailing the purpose, description and amount of all additions to and withdrawals from the fund, established pursuant to said agreement, during the prior calendar year and the balance of the fund at the close of the year. A copy of such statement shall concurrently be transmitted to the Commission, to the attention of the Finance and Accounts Division.

10. A certificate of public convenience and necessity is granted to Squirrel Mountain Water Company, a corporation, to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. F-102, adopted October 10, 1967, by the Board of Supervisors of the County of Kern.

11. The effective date of this order shall be established by supplemental order of the Commission: (a) after applicant has coated, wrapped and buried its 5,276 feet of 3-1/4-inch steel transmission main between its spring source of supply and its distribution system in Tract 2542, or has replaced it with pipe recommended by applicant's consulting engineers in their reports dated April 3, 1964 and February, 1968, and has advised the Commission, in writing of

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the completion of said transmission line improvements, and (b) after applicant has complied with ordering paragraph 7.

Dated at San Francisco, California, this 28th
day of OCTOBER, 1969.

William Symons
President

August

William J.

Thomas

William L. Stinson
Commissioners