

Decision No. 77035

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of THOMAS H. PORTER and PEGGY )  
A. PORTER, husband and wife, as )  
co-owners of the Grizzly Park )  
Water Company, for authorization )  
to extend Water Service beyond )  
the limits of the Grizzly Park )  
Subdivision. )

Application No. 51439  
(Filed October 22, 1969;  
Amended November 24, 1969)

O P I N I O N

This application was filed on October 22, 1969, by Thomas H. Porter and Peggy A. Porter, dba Grizzly Park Water Company, for authority to extend water service beyond the limits of the Grizzly Park subdivision. Applicants were required to request authority to extend to a contiguous area only because of the restriction of ordering paragraph 2 of Decision No. 67748, dated August 25, 1964 in Application No. 46501, the decision authorizing the establishment of the utility. Paragraph 2 of this decision stated:

"Applicants shall not extend or furnish water service outside their certificated area boundaries without authority first having been obtained by further order of this Commission."

In addition to their operations as a water utility applicants are also the subdividers of the various units of the Grizzly Park area.

The staff has submitted a report of an investigation which is hereby incorporated into the record as Exhibit 1. A copy of the report has been forwarded to applicants.

Applicants presently serve Grizzly Park Unit No. 1 (Decision No. 67748, supra) and Unit No. 2 (Decision No. 71888 in Applications Nos. 48352 and 46501, dated January 24, 1967). Applicant has by contiguous extension expanded from Unit No. 2 to Units Nos. 3 and 4. The two areas are located on either side of the community of Grizzly Flats, El Dorado County, about 22 miles ESE of Placerville.

Unit No. 1 contains 150 acres and is subdivided into 122 residential lots. Units Nos. 2, 3 and 4 contain 251 acres and are subdivided into one commercial lot and 439 residential lots. Units Nos. 2, 3 and 4 are east of Unit No. 1.

The subdivision is lot-type and there are presently only 22 active residential services and one commercial service as of October 31, 1969. Most of these are in Unit No. 1 within the present service area.

The requested additional service area is shown in the map attached to the application as Exhibit 1. It is located in Sections 15 and 16 of T9N, R13E Mount Diablo Base and Meridian and is between and contiguous to the utility's two present service areas; it contains about 370 acres. There are approximately 300 lots which ultimately can be developed in this requested service area. The utility presently has definitive plans for serving only Grizzly Park Unit No. 5 which is a subdivision of 33 lots contiguous to and north of Unit No. 1 and is within the requested service area. Applicants are presently designing a transmission main to connect their two service areas. Tentatively, it is to be constructed along the road connecting the two areas through the community of Grizzly Flats and also some unsubdivided land owned or controlled by applicants.

The requested service area also includes a few dwellings in Grizzly Flats. It can be inferred from the verified application that there is neither an investor nor publicly owned water system in the community.

There are two sources of water supply for this system. One is a well of 28-gpm capacity located in Unit No. 2, Lot 19. The primary source of supply for both areas is the Eagle Ditch. The ditch diverts water from numerous springs located in the El Dorado National Forest and spills its unused water into String Canyon, which is west of Unit No. 1. The Eagle Ditch is a water conduit into which various owners have, since 1879, diverted water for domestic, stockwatering, mining and irrigation uses. The Eagle Ditch has never been operated as a public utility. Applicants now have acquired 72.5% ownership of the Eagle Ditch water right which, based on an estimated minimum flow of 900 gpm, entitles them to divert 652 gpm. It is necessary to filter and chlorinate the ditch water.

Water for Unit No. 1 is obtained from the Eagle Ditch and after filtering and chlorination is pumped into a 100,000-gallon steel storage tank. The rapid sand filter has a capacity of 30 gpm and is designed to automatically backwash when necessary.

Water for Unit No. 2 is obtained from both the well and the ditch. Water from the ditch is filtered and chlorinated and then pumped into two steel storage tanks, one of 100,000-gallon capacity and the other holding 200,000 gallons. The storage tanks in Unit No. 2 are approximately 90 feet higher in elevation than the storage tank in Unit No. 1. The water supply is sufficient to serve both the existing and requested serving areas.

Both Unit No. 1 and Unit No. 2 distribution systems meet the requirements of General Order No. 103, "Rules Governing Water Service Including Minimum Standards for Design and Construction". The well and the installed facilities to treat and store water from the ditch source of supply will produce an adequate supply of water for approximately 415 customers. Applicants plan to make additions to the filtering capacity in sufficient time to meet the future requirements of the water system.

In Unit No. 5 the facilities will include 33 services, approximately 3,375 feet of 6-inch Class 150 asbestos-cement pipe, and five fire hydrants.

Applicants propose to finance the cost of water facilities in Unit No. 5 from proceeds of special assessment bonds. Special assessment bonds also were used to finance construction of water facilities in Units Nos. 1 and 2, so that at the present time virtually all of applicants' plant has been contributed. The staff believes that this will not in itself cause any additional problems in this instance, because assessment bond financing will not require depreciation accruals or cash refunds as would otherwise be the case if financing had been under the main extension rule.

The basic principle of assessment bond financing ultimately results in the donation of the capital cost of the system by that portion of the public enjoying the service rendered. Our accounting rules require that plant acquired from a related subdivider which has been financed by assessment bonds be treated as a contribution (Meyers Water Co., 62 P.U.C. 590). Since no refunds could logically be made to the parent subdividers in such a situation, such plant will never appear in the utility's rate base and the customers will not be required to pay either the depreciation charges or a return on the capital which they themselves have contributed. However, in the event that a public entity were to attempt to acquire the system by eminent domain, it is possible that the

utility would be entitled to claim compensation for plant thus financed. The duty to pay compensation would normally be borne by that portion of the public who originally paid the assessments or their successors. Ordering paragraph 5 is intended to prevent such an anomaly.

The application is not entirely clear as to whether applicant seeks to finance the transmission main by assessment bonds. We cannot authorize such financing without a showing that the assessment for such facility will be borne equally by all properties benefiting.

Recently, the Commission has begun to require the establishment of loss reimbursement funds for lot-type water systems to cover the estimated excess of expenses over revenues during developmental periods. The establishment of such a fund based on a contribution of a designated cash amount for each lot sold would be appropriate for the extension requested in this application. Mr. Porter, by a letter filed December 8, 1969, expressed no opposition to the establishment of a loss reimbursement fund with contributions of \$50 per lot for each lot in Grizzly Park Subdivision Unit No. 5 sold or transferred. This fund would be used to cover out-of-pocket expenses of the utility to the extent that operating revenues are insufficient. Any unneeded amounts remaining in the fund would be returned to Mr. Porter as developer at the end of five years. The staff supports this solution with the understanding that it shall not be considered as a precedent for the amount or holding period of loss reimbursement fund additions that may be requested for future extensions.

Since the staff investigation shows an adequate water supply for development outside of Unit No. 5, there would appear no cause under Sections 1001, 2708 and 2710 of the Public Utilities Code to limit applicant to construction only within Unit No. 5. Since it appears that we should permit expansion into Grizzly Park Subdivision No. 5, we should in this decision establish a loss reimbursement fund for covering the expansion authorized herein.

The action taken herein is for the issuance of a certificate of public convenience and necessity only and is not to be considered as indicative of amounts to be included in proceedings for the purpose of determining just and reasonable rates.

Findings

1. The applicants now have sufficient water to meet reasonably expected demands of their present and prospective customers and the restriction in ordering paragraph 2 of Decision No. 67748 dated August 25, 1964 in Application No. 46501 is no longer necessary.

2. The use of assessment bond financing for in-tract facilities will not be adverse to the public interest if made subject to the conditions set forth in ordering paragraph No. 5 below.

3. This water system can reasonably be expected to experience a relatively long developmental period of low revenues compared to expected expenses for operations, repairs, maintenance and replacement of facilities.

4. The community of Grizzly Flats is included in the requested service area and has neither an investor nor a publicly owned water system. With the restriction of Decision No. 67748 lifted, this area may be included within the utility's service area by means of a tariff filing in accordance with the Commission's General Order No. 96-A.

Conclusions

1. Applicants should be authorized to serve only Grizzly Park Subdivision No. 5 subject to the terms and conditions set forth in the ordering paragraphs below.

2. Ordering paragraph 2 of Decision No. 67748 should be rescinded.

3. Applicants should be authorized to construct a connecting pipeline between the two present service areas. They will need further authority to utilize assessment bond financing for such construction.

4. Applicants, as the developer of a lot-type subdivision, should be required to establish a loss reimbursement fund sufficient to ameliorate any out-of-pocket deficits occurring during the subdivision's developmental period.

O R D E R

IT IS ORDERED that:

1. Thomas H. Porter and Peggy A. Porter, doing business as Grizzly Park Water Company, are granted a certificate of public convenience and necessity authorizing them to extend their facilities to serve Grizzly Park Subdivision No. 5.

2. Applicants are authorized to connect the water system of Unit No. 1 to Unit No. 2.

3. Within ten days after the date service is first rendered to the public in Grizzly Park Subdivision No. 5 under authority granted herein, applicants shall submit written notice thereof to this Commission.

4.a. Applicants shall deposit in an interest-bearing special account in a bank or savings and loan association, \$50 per lot upon the sale or transfer by them of any lot within Grizzly Park Subdivision No. 5. Such funds together with interest earned thereon shall be used only for paying expenses properly chargeable to the below-named account categories and only to the extent that the total of such expenses exceeds the total gross revenues of the utility system in any calendar year:

Account 507.1	Property Taxes
Account 507.2	Payroll Taxes
Account 726	Power
Account 735	Operation & Maintenance, Materials
Account 736	Operation & Maintenance, Contract Work
Account 734	Operation & Maintenance, Employee Labor

All references to this ordering paragraph are to the appropriate portions of Uniform System of Accounts for Class D Water Utilities, effective January 1, 1966, which publication is incorporated herein by reference. Applicants may also, if authorized in advance by this Commission, apply the fund or any portion thereof to replacement of plant facilities authorized to be constructed herein.

b. Applicants are relieved of the obligation to deposit and may have any remaining funds returned to them when, with the extensions authorized herein, system revenues for a calendar year have exceeded by 20 percent the total of system expenses in the above-listed categories.

c. Applicants shall, not later than March 31 of each year, furnish the Commission with an accounting of all additions to and disbursements from the fund.

5. Applicants are authorized to deviate from their filed main extension rule to finance in tract facilities in the new service area,



with the exception of the facilities authorized in ordering paragraph 2, by assessment bonds subject to the condition that if the facilities so financed are ever purchased or taken by eminent domain by any public entity, the proceeds of the disposition of such facilities shall be held in trust for the benefit of the owners of the land assessed, to be disposed of as a court of competent jurisdiction shall direct. Applicants shall record the cost of plant financed with the proceeds of special assessment bonds in appropriate plant accounts, with a contra credit to Account 265, Contributions in Aid of Construction. Applicants are prohibited from paying refunds on such plant.

6. After the effective date of this order, applicants are authorized to file revised tariff sheets, including tariff service area maps, to provide for the application of its present tariff schedules to Grizzly Park Subdivision No. 5. 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.

7. Ordering paragraph 2 of Decision No. 67748, dated August 25, 1964, in Application No. 46501, is rescinded.

8. Applicants shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within sixty days after the facilities to serve Grizzly Park Subdivision No. 5 have been placed in operation under the authority granted

herein, applicants shall file with the Commission two copies of the map.

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

Dated at Los Angeles, California, this 7<sup>th</sup> day of APRIL, 1970.

William Sproull  
President

Richard

Thomas L. Sturgeon  
Commissioners

I dissent  
J. P. [Signature]