

ORIGINAL

Decision No. 77567

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Edward K. Olson, Jr., Fred R. Adams and Joseph Faure, Jr., doing business as MONTE VISTA UTILITY COMPANY for a Certificate of Public Convenience and Necessity to Construct and Operate a Water System in Tract 506 in the County of Tulare.

Application No. 51309
(Filed August 11, 1969)

Application of RIVER ISLAND WATER COMPANY, a Corporation, for a Certificate of Public Convenience and Necessity to Extend Its Water Service to Tract 506 in the County of Tulare.

Application No. 51719
(Filed February 24, 1970)

In the Matter of the Application of THE LINDALE WATER COMPANY, a California Corporation, for a Certificate of Public Convenience and Necessity to Extend Its Water Service to Tract 506 in the County of Tulare.

Application No. 51828
(Filed April 16, 1970;
Amended June 17, 1970)

In the Matter of the Application of Fay Rowland and Leona B. Rowland, dba ROWLAND WATER CO., for a Certificate of Public Convenience and Necessity to Construct and Operate a Public Utility Water System in an unincorporated area West and South of the City of Porterville, County of Tulare, California, known as Tract 506.

Application No. 51831
(Filed April 17, 1970)

John P. Moran, for Monte Vista Utility Company, applicant in A.51309, protestant in A.51719, A.51828, A.51831.

John P. Moran, for River Island Water Company, applicant in A.51719, protestant in A.51309, A.51828, A.51831.

Theodore O. Berry, for Lindale Water Company, applicant in A.51828, protestant in A.51309, A.51719, A.51831.

Jack Rowland and Benny N. Rowland, for Rowland Water Co., applicant in A.51831, protestant in A.51309, A.51719, A.51828.

Theodore N. Andrews, for State Department of Public Health, Bureau of Sanitary Engineering; Ronald D. Shofner, and Dale Rowden, for Tulare County Health Department, interested parties.

Jerry J. Levander, for the Commission staff.

O P I N I O N

Introduction

Edward K. Olson, Jr., Fred R. Adams and Joseph Faure, Jr., are the developers of Tract 506 in the County of Tulare. The tract consists of approximately 110 acres. There are 147 single residential lots, two large multiple-residential areas covering about 9.5 acres; a 4.6 acre commercial lot; 2.7 acres of recreational lots; 13.3 acres of river; and a man-made lake covering 26 acres.

According to the developers, this development is unique in Tulare County. The developers plan on organizing a homeowners' association, which will have, among its other rights and privileges, the right to develop its own source of water to supply the lake which will be used for sail boating, swimming and fishing. The key to the successful development of the tract is the lake. The development has only one entrance and no expansion of the development is contemplated. The tract will have its own sewer system.

The tract has not yet received final approval from the county. The homeowners' association has not as yet been officially formed.

General

On August 11, 1969, the developers, doing business as Monte Vista Utility Company (a newly formed company), filed Application No. 51309 requesting a certificate of public convenience and necessity to construct and operate a water system in Tract 506.

Acting on the belief that this Commission's staff preferred that utility service to new areas be supplied by existing public utilities, River Island Water Company, solely owned by Mr. Olson (one of the developers of Tract 506), filed Application No. 51719 on February 24, 1970. Apparently acting under the same belief, Lindale

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Water Company filed Application No. 51828 to serve Tract 506 on April 16, 1970, and on April 17, 1970 Rowland Water Co. filed Application No. 51831 requesting authority to serve Tract 506.

Public hearing on the various applications was held at Porterville before Examiner Gillanders on June 16 and 17, 1970 and the matters submitted on June 17.

Monte Vista Utility Company

Mr. Olson testified that the owners want to serve the tract. He believes that it would be feasible to have one man to run all of the various systems in the tract, i.e., the water system, the sewer system and the recreation areas. Applicants contemplate that the complete system will be in operation at the end of the five-year period commencing from the date of initial operation. The first unit of the development will include approximately 25% of the complete project. The system construction cost for initial Unit 1 development will include installation of the total pumping plant facilities and 25% of the remaining facilities which amounts to \$24,700. Applicants propose to finance the construction initially from revenues being received from the sale of fill from the lake excavation on the site. Thereafter, funds from the sales of lots in the subdivision will be available for later construction in the system. Applicants propose to pay any initial operating deficits during the initial period of service from revenues from the sale of fill from the excavation on the site, from the proceeds of sales of lots in the subdivision and from their personal funds.

River Island Water Company

Mr. Olson is sole stockholder and president of applicant.

Applicant's existing service area consists of Tracts 339 and 449 containing approximately 68 residential lots located

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approximately 4 miles southwest of Springville, Tulare County. The tracts are surrounded by the River Island golf course owned by Mr. Olson. The golf course has its own source of supply. Tract 506 is approximately 11 miles southwest of the existing service area of applicant.

By Decision No. 67264, dated May 26, 1964 in Application No. 45847, we ordered River Island to record in its accounting records the cost of its water facilities constructed by the developers. The staff of our Finance and Accounts Division recently conducted an audit of River Island Water Company's accounting records, after two prior unsuccessful attempts because the records were not made available for examination. The audit disclosed that the utility does not maintain accounting records in accordance with the Uniform System of Accounts for Class D Water Utilities, as prescribed by this Commission, in that its accounts are comingled with the records of the development company; however, the staff accountant was able to develop utility plant costs from work papers maintained by the development company, and to make the necessary corrections to recorded amounts. Also the company has consistently been late in filing the required annual reports.

Decision No. 67264 ordered River Island to file a depreciation study to be due in 1969. Such study has not yet been received.

River Island, according to its 1968 annual report, is operating at a net loss. It has not filed its 1969 annual report.

Lindale Water Company

As of December 31, 1969, the officers of Lindale were Wayland George, President, Henry K. George, Vice President, and Blanche George, Secretary-Treasurer. Each of these officers owns

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200 shares of applicant's 600 shares of outstanding stock. Wayland George who lives in Albuquerque, New Mexico is the son of Henry K. and Blanche T. George.

Henry K. George operates and maintains the Lindale water system. Mrs. Blanche George does the bookkeeping and office work. During the staff field investigations Mrs. George informed the staff engineer that she and her husband may retire due to their age. However, no date has been set for their retirement and they would operate Tract 506, if granted a certificate, without employing extra personnel.

Lindale's service area is approximately two miles northwest of Porterville. As of December 31, 1969, Lindale served 633 customers. According to its 1969 annual report, Lindale had a net income, for 1969, of \$1,512.15.

Rowland Water Co.

Fay Rowland and Leona B. Rowland, husband and wife, dba Rowland Water Company, operate water systems in four independent areas scattered around the City of Porterville. As of December 31, 1969, Rowland Water Company served a total of 722 customers. Rowland Water Company has, since late 1969, been operated as two separate entities although no Commission authorization has been obtained for the division of the company. One son, Benny Rowland, manages the water systems in the areas known as Tract No. 127 and Pioneer Land Company's first subdivision, with approximately 150 customers in each area. The water systems in the other two areas known as Tract No. 128 and Valley Gardens, serving approximately 300 and 100 customers, respectively, are managed and operated by another son, Jack Rowland. Separate books of account, records and bank accounts are maintained by each brother. The 1969 annual report to

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the Public Utilities Commission, which was filed May 11, 1970, was signed by Benny Rowland, using the title "partner". This report should have been filed on or before March 31, 1970. The report shows a net income of \$5,337.76 before any income taxes.

Jack Rowland proposes to operate and manage Tract 506 in the event that a certificate should be granted to Rowland.

Other Purveyors

At the present time, the Porterville Municipal Water Department is not interested in serving Tract 506. However, according to the staff, the city's contemplated expansion would result in the acquisition of two Rowland systems and Tract 506.

Discussion

Ordinarily we prefer that the proliferation of new uneconomical water utilities be curbed. Too, at times the best interests of the public require that the application(s) of existing utilities be denied and some other solution be applied. Such is the case in the matters before us.

The evidence adduced from the various witnesses clearly reveals that the greatest use of water will be make-up water for the lake. 900 acre feet per year will be required to replace water lost due to percolation and 100 acre feet will be required to replace the loss due to evaporation. In the fifth year, the staff engineer estimated that the residents would use but 250 acre feet,

The evidence clearly shows that none of the estimates of results of operations produced by the various applicants even approximate a reasonable result. It was apparent that neither the officers of the applicants nor their witnesses knew that power costs for pumping could easily be determined from data directly applicable to the proposed system rather than from some average cost.

The staff's estimates for operating cash drain^{1/} for the years 1971 through 1973 for River Island, Lindale and Rowland are tabulated below:

<u>Year</u>	<u>Number of Equivalent Customers</u>	<u>Revenue from Customers and Lake</u>	<u>Expenses</u>	<u>Operating Cash Drain</u>
<u>River Island Water Company</u>				
1971	20	\$ 2,900	\$4,300	\$ 1,400
1972	40	4,000	5,100	1,100
1973	70	5,600	5,800	200
			Total	\$ 2,700
<u>Lindale Water Company</u>				
1971	20	\$ 3,000	\$3,850	\$ 850
1972	40	4,250	4,350	100
1973	70	6,050	4,800	\$ (1,250)
			Total	\$ 950
<u>Rowland Water Co.</u>				
1971	20	\$ 2,900*	\$3,800	\$ 900
1972	40	4,000	4,300	300
1973	70	5,600	4,750	\$ (850)
			Total	\$ 1,200

(Red Figure)

* Rowland does not propose to supply lake.

According to Mr. Olson the developers have not yet abandoned the idea to form a mutual to supply water service for their development, nor have they definitely decided to supply the lake from wells existing within the tract. The development is within an irrigation district and water could be obtained from the district or from the river which flows adjacent to the tract.

^{1/} Defined as out-of-pocket expenses in cash including taxes and excluding depreciation expense and management fees.

It is apparent that no public utility could successfully operate such a small isolated water system. It is equally apparent that a consolidated operation of all public services required by the development would be in not only the developers' interest but eventually would be in the best interests of the members of the public who purchased or rented property within the development.

Closing Position of Parties

The developers of Tract 506 prefer that the development be served by a public utility rather than by a mutual water company. The proposals of Lindale and Rowland are unacceptable to the developers. The developers request that the certificate to serve Tract 506 be granted to River Island or in the alternative to Monte Vista. Both of these entities are willing to accept any conditions imposed by the Commission.

Lindale is not inflexible and its proposed operation is subject to modification.

Rowland stands on its proposal.

The staff made no recommendation as to which applicant should serve the tract.

Findings of Fact

The Commission finds that:

1. Edward K. Olson, Jr., Fred R. Adams and Joseph Faure, Jr., are the developers of Tract 506 in the County of Tulare.
2. Edward K. Olson, Jr., Fred R. Adams and Joseph Faure, Jr., doing business as Monte Vista Utility Company, have applied for a certificate of public convenience and necessity to construct and operate a water system in Tract 506.

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3. As a separate utility, Monte Vista would not be viable.
4. Edward K. Olson, Jr., is sole stockholder and president of River Island Water Company.
5. River Island Water Company has applied for a certificate of public convenience and necessity to construct and operate a water system in Tract 506.
6. River Island Water Company does not maintain accounting records in accordance with this Commission's requirements.
7. River Island does not file its annual reports in accordance with this Commission's time requirement.
8. River Island has not filed a depreciation study due in 1969 as ordered by Decision No. 67264.
9. River Island operated at a net loss of \$1,403.88 in 1968.
10. As of December 31, 1969, the officers of Lindale Water Company were Wayland George, President, Henry K. George, Vice President, and Blanche George, Secretary-Treasurer, each of whom owns 200 shares of Lindale's outstanding stock.
11. Mr. Henry George operates and maintains the Lindale Water System and Mrs. Blanche George does the bookkeeping and office work.
12. Mr. and Mrs. George plan on retiring soon but no date has been set.
13. Mr. Wayland George lives in New Mexico.
14. For 1969, Lindale had a net income of \$1,512.15.
15. Lindale proposes to require the developers to sign a main extension agreement for all water system equipment in accordance with its filed tariff.
16. If Lindale were granted a certificate to serve Tract 506 it would suffer a net loss from operating the projected system even at the 5th year.

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17. Fay Rowland and Leona B. Rowland, husband and wife, do business as Rowland Water Company.

18. Rowland Water Company, since late 1969, has been operated as two separate entities without authorization of this Commission.

19. Rowland Water Company's 1969 annual report to this Commission was signed by Benny Rowland using the title "partner".

20. Benny Rowland is not a partner nor does he have any present ownership in Rowland Water Co.

21. The 1969 annual report was not filed on time.

22. Mr. Jack Rowland, an employee of Rowland Water Co., proposes to operate and manage the water system in Tract 506 if a certificate is granted to Rowland Water Co.

23. If Mr. Jack Rowland charges a reasonable amount for managing the system in Tract 506, the system would operate at a net loss even at the 5th year.

24. Rowland Water Co. proposes to require the developers to sign a main extension agreement for all water system equipment in accordance with its filed tariff.

25. Rowland Water Co. does not propose to serve Monte Vista Lake.

Conclusion of Law

The Commission concludes that based upon the above findings, Applications Nos. 51309, 51719, 51828 and 51831 should be denied.

We emphasize that our findings and conclusion are based solely upon the facts as developed in this proceeding.

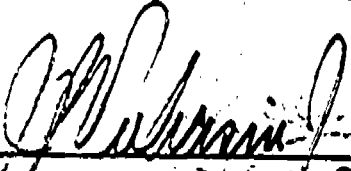
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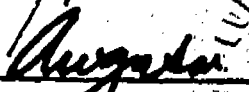
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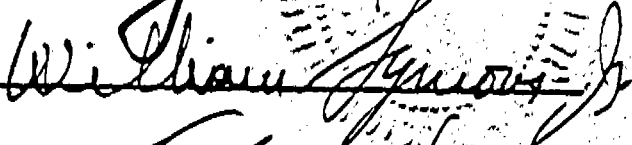
IT IS ORDERED that Applications Nos. 51309, 51719, 51828 and 51831 are denied.

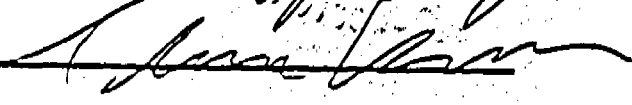
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 4th day of AUGUST, 1970.



Chairman






Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.