

Decision No. 80626**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of SPLIT MOUNTAIN WATER COMPANY,
 a California corporation, for a
 certificate of public convenience
 and necessity to construct a pub-
 lic utility water system near
 Wofford Heights in Kern County
 and to establish rates for service.)

Application No. 53084
 (Filed January 4, 1972)

Oscar Greene, for applicant.

Eugene S. Jones, for the Commission staff.

O P I N I O N

Split Mountain Water Company, a California corporation, requests a certificate of public convenience and necessity to construct a public utility water system to serve 110 lots near Wofford Heights in Kern County and requests authorization of rates. Hearing on the application was held, after due notice, before Examiner Coffey in Bakersfield on June 15, 1972. The matter was submitted on July 31, 1972 upon receipt of the reporter's transcript.

Split Mountain Water Company is solely owned by Pala Ranches, Inc., the subdivision landowner and developer of two tracts herein considered, Tracts Nos. 3141 and 3491. Pala is in turn primarily owned by its parent corporation, Kern River Distributors. Both parent corporations and Split Mountain Water Company are controlled by Oscar Greene, president of Split Mountain Water Company.

Applicant's existing system serves 101 lots of Tract No. 3141, which lies south of Highway 155, about two miles west of Wofford Heights, California. The new tract, No. 3491, lies on the north side of Highway 155 across the road from applicant's presently certificated area, Tract No. 3141.

Applicant's request stems from the development of Tract No. 3491 and by the requirements of Decision No. 76723, dated

January 27, 1970, which ordered that applicant shall not extend its facilities or offer to provide service outside of Tract No. 3141 without further order of the Commission. In addition, the decision found that before extending service beyond Tract No. 3141 an additional source of supply should be secured. Applicant initially began operations as a public utility water company under the provision of said decision to provide service to Tract No. 3141.

The proposed new service area, Tract No. 3491, is mountainous, totaling 122.52 acres with elevations varying between 3,450 to 3,929 feet. The area is divided into 110 lots, averaging slightly more than one acre per lot, with the smallest lot being 10,000 square feet and the largest being five acres.

The subdivision is designed for mobile homes and mountain cottages and the lots are to be sold without homes. A tentative subdivision map was approved by the County of Kern on November 7, 1970, and is attached to the application marked as Exhibit 3. Subdivider, Pala Ranches, is now in the process of building roads and developing the homesites for sale as soon as water is made available.

As of June 15, 1972, approximately 90 of the 101 lots in Tract No. 3141 have been sold, mobile homes have been installed on 36 or 37 of the lots and about three conventional homes have been built. The staff report on this application indicates prospective purchasers have spoken for 20 lots in Tract No. 3491.

Applicant proposes to apply its presently filed rates which have been in effect since initiation of water service in 1970.

In lieu of installing meters, applicant is charging its customers the minimum charge included in applicant's filed meter services tariff Schedule No. 1. Applicant has no flat rate tariff on file.

Applicant rents space in the office of the Arden Water Company. A propane serviceman and a propane driver, employees of Kern River Distributors, are available to operate and maintain

applicant's system. The serviceman works part-time for Arden Water Company and is available to applicant, but it appears that as of the hearing date in this matter no charges for the time of the serviceman have been made to applicant. The General Manager of Kern River Distributors inspects the operation of the system pump each morning on his way to work. No charge is made for this service. The bookkeeper of Kern River Distributors does applicant's billing for which \$20 a month is charged.

In addition to the 41.81 acres of Tract No. 3141 and the 122.5 acres of Tract No. 3491, Pala Ranches, Inc., owns an additional 1,000 acres. Pala Ranches has started the development of a new unit of 100 lots and estimates Pala Ranches will ultimately be divided into about 650 units.

The primary source of water presently serving applicant's system, Well No. 1, is capable of pumping 105 gpm into steel storage tanks having capacities of 21,000 gallons and 100,800 gallons. These tanks gravity feed the system to maintain distribution pressures required by General Order No. 103.

An alternate source of supply, Well No. 2, capable of producing 35 gpm for emergency service, is connected to the system. This source is owned by Oscar Greene and is dedicated for that service by a contract, a copy of which is attached to this application as Exhibit 10.

Applicant, in its original Application No. 51203, filed a geologist's report with the Commission marked Exhibit 11 and titled "Report on the Water Resources of the Tillie Creek Drainage Basin, Kern County, California." This report concluded that the amount of water in the Tillie Creek Basin was ample for the development considered, and further concluded that "In the future, should an increase in the amount of water be needed, the recharge of the ground water reservoir might be accomplished by building small gravity dams on Shirley and Tillie Creeks to slow down the runoff and increase percolation by lateral spreading. "

Exhibit 4 of this application includes the design and calculations showing that the proposed gravity water system for Tract No. 3491 meets the requirements of General Order No. 103 as amended January 24, 1967. The 210,000-gallon storage tank is designed to give an adequate rate of flow to supplement the 55 gallons per minute capability of the new Well No. 3 to meet the design criteria of three maximum days in a row, including 250 gpm fire flow which is required by Kern County. The water system for Tract No. 3491 has been designed to be self-sustaining, but will be interconnected with the company's Tract No. 3141 system so that Well No. 2 may act as an alternate source of supply in case of an emergency breakdown in Well No. 3. The staff report states that the system complies with General Order No. 103. At the time of the staff field investigation in January 1972, applicant had completed tests on Well No. 3 and had the 210,000-gallon tank in place.

Applicant's existing and proposed service areas are in mountainous and canyon type terrain with many trees and bushes. These tend to hide the company's pumps and tanks generally from view and when seen are of such color that they blend in with trees and the terrain. Consideration of the aforementioned factors, community values, recreational and park area, historical and aesthetic values, and influence on environment, leads the staff to conclude that none of these factors should preclude applicant's request for a certificate.

The primary purpose of the hearing in this matter was to give applicant an opportunity to demonstrate that if applicant is granted the requested certificate it will be an economic operation capable of not only generating enough funds to provide for cash needs but also will be a financially sound institution that the Commission reasonably can anticipate will be able to render service to its customers at reasonable rates in the foreseeable future.

Applicant estimates that in the first year of operation expenses will exceed revenues by \$980 and that in the fifth year of operation expenses will exceed revenues by \$224.

After reflecting accounting adjustments proposed by the applicant and the staff witness, it appears from applicant's annual reports to this Commission, that it lost \$1,853.26 in 1970, the first year of operation, and in 1971 the loss was \$1,182.07. From the annual reports out-of-pocket costs exceeded revenues by \$71.60 in 1970, and by \$300.79 in 1971. None of the foregoing amounts fully disclose the economics of the proposed operation. For instance, no allowance for the repayment of advances for construction is reflected in any of the figures. This record contains no estimates of the results of operation when Pala Ranches is fully developed to 650 units.

The application states the intention of applicant to "execute a contract, acceptable to the Commission, with the developer, Pala Ranches, showing that no lot in Tract No. 3491, shall be sold, transferred, or encumbered without payment of \$70.00 by developer at the time of the transaction for each of the 110 lots a total of \$7700.00 with appropriate escrow instructions for the deposit into an interest bearing special fund account of the utility separate from other cash accounts, with a non-affiliated financial institution; further that the funds thus deposited into the applicant's special fund account with its earned interest shall be used, insofar as operating revenues are deficient, only for out-of-pocket operations, repairs, maintenance and replacement of facilities exclusive of any management salaries paid to stockholders for the developer of Tract No. 3491."

The staff recommends that the Commission authorize applicant to extend its system into Tract No. 3491.

We shall herein grant applicant's request and we shall continue to require a contribution of \$70 per lot for Tract No. 3491 although we have some reservations as to the adequacy of the amount. Applicant will be required to make a showing as to the adequacy of this amount before extending service to an adjoining tract and may, at that time, be required either to make a lump sum deposit to increase the balance in the loss reimbursement fund, or to increase the contributions per lot.

On the other hand, if this utility is merged into a larger, self-sustaining utility, the resulting economies of operation might make a fund of this size unnecessary. In such an instance the matter of a refund to the developer of all or a portion of the loss reimbursement fund may be referred to the Commission for consideration.

Findings and Conclusion

We find that:

1. Public convenience and necessity require the construction of the proposed water system to serve the area in Tract No. 3491.

2. Applicant's available water supply is of adequate quality and quantity to serve applicant's present service area and Tract No. 3491.

3. The application of applicant's present rates for water service in Tract No. 3491 is reasonable.

4. Applicant has the financial ability to serve Tract No. 3491.

5. The extension requested herein could be made under Section 1001 of the California Public Utilities Code except for restrictions imposed by the Commission.

6. The staff recommendations are reasonable.

7. During the first five years of operation applicant will sustain substantial operating and out-of-pocket cash losses.

8. This record does not establish applicant's operation will be economically self-sufficient in the foreseeable future.

9. Applicant expects ultimately to serve approximately 650 customers.

10. The State of California is constructing a freeway which will provide access to the area served by applicant.

11. The construction and operation of the proposed water system will have no known adverse effect on the environment, or on historical and aesthetic values, or on recreational and park areas, or on community values.

We conclude that the application should be granted to the extent and under the conditions set forth in the order which follows.

The certificate of public convenience and necessity issued herein is subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity, or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the issuance of such franchise, certificate of public convenience and necessity or right.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Split Mountain Water Co., subject to the conditions of this order, authorizing it to construct a public utility water system to serve Tract No. 3491 as delineated in Exhibit 3 attached to Application No. 53084.
2. Applicant is authorized to apply its presently filed tariff rates and rules to the area herein certified.
3. Within ten days after the date service is first rendered to the public within the area herein authorized, applicant shall submit written notice thereof to this Commission.
4. Applicant is authorized to file after the effective date of this order a tariff service area map clearly indicating the boundaries of the area authorized to be served. Such filing shall comply with General Order No. 96-A and shall be effective on the fourth day after the date of filing.
5. The authority to serve the area granted herein shall expire unless the designated map is filed within one year after the effective date of this order.

6. The effective date of this order shall be established by supplemental order of the Commission after applicant has (a) filed a copy of the recorded easements and conveyances of title to applicant's operated plant sites and pipeline easements in Tract No. 3491; and (b) entered into a loss reimbursement agreement in accordance with the form attached to this order as Appendix A, which provides that the developer of Tract No. 3491 will pay applicant the amount of \$70 per lot upon sale or transfer by developer of lots in Tract No. 3491.

After the effective date of this order applicant shall file, in conformity with General Order No. 96-A, a schedule of rates as attached to this report, marked Appendix B.

Dated at Los Angeles, California, this 17th day of OCTOBER, 1972.

Vernon L. Stinson
President
W. J. [illegible]
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Commissioners

APPENDIX A
Page 1 of 2Loss Reimbursement Agreement

Applicant shall enter into a loss reimbursement agreement in a form acceptable to the Commission which requires the developer to pay \$70 to the utility to be deposited in a separate, interest-bearing account in a bank or savings and loan association in California upon the initial sale or transfer by them of any lots within Tract No. 3491. Such funds, together with interest thereon, shall be used only for paying the following costs of the utility and only to the extent that water service revenues are less than expenditures:

1. Out-of-pocket (cash) expenses properly chargeable to the below listed accounts in the Uniform System of Accounts for Class D Water Utilities prescribed by Decision No. 69950, dated November 16, 1965:
 - Ac. 704, Purchased Water,
 - Ac. 726, Power,
 - Ac. 734, Operation and Maintenance - Employee Labor,
 - Ac. 735, Operation and Maintenance - Materials,
 - Ac. 736, Operation and Maintenance - Contract Work,
 - Ac. 507.1, Property Taxes.
2. Replacement or improvement of plant facilities of the utility provided that such expenditures have first been authorized by a letter from the Secretary of this Commission.
3. A maximum of ten percent of the cumulative amount paid into the fund, exclusive of disbursements therefrom shall be utilized to pay the above expenses in any single year.
4. No amounts in this fund shall be disbursed to pay salaries or expense of owners, officers or members of owner's family.

Upon the 20th anniversary of the initial deposit, any amount remaining in the loss reimbursement fund not utilized shall be refunded to the developer or paid to his designee. If, prior to the 20th anniversary of the initial deposit, the utility is providing water service to not less than 400 active services, and is earning a reasonable return on its investment, either the utility or the developer may request the Commission to direct the utility to

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Loss Reimbursement Agreement

refund any unexpended balance in the loss reimbursement fund to the developer or his designee. For purposes of determining the number of active services as referred to in this subparagraph, each occupied rental trailer space shall be considered to be an active service.

Applicant shall provide the developer with a statement not later than March 31 of each year, detailing the purpose, description and amount of all additions to and withdrawals from the fund during the prior calendar year, and the balance in the fund at the close of the year. Two copies of this statement shall concurrently be filed with the Commission, attention of the Finance and Accounts Division. Two copies of said loss reimbursement agreement shall be filed with the Commission, attention of the Finance and Accounts Division, concurrently with the filings of tariffs by the utility.

APPENDIX B

Schedule No. 2R

RESIDENTIAL FLAT RATE SERVICEAPPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

Tracts Nos. 3141, 3491, and vicinity, near Wafford Heights, Kern County.

RATES

	<u>Per Service Connection</u> <u>Per Month</u>
For a single-family residential unit, including premises	\$3.45
For each additional single-family residential unit on the same premises and serviced from the same service connection	2.50

SPECIAL CONDITIONS

1. The above flat rates apply to service connections not larger than one inch in diameter.
2. All service not covered by the above classifications shall be furnished only on a metered basis.
3. For service covered by the above classifications, if the utility or the customer so elects, a meter shall be installed and service provided under Schedule No. 1, General Metered Service.