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Decision No. 84708

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
YOSEMITE SPRING PARK UTILITY CO. for  
a Certificate of Public Convenience  
and Necessity to extend a Public  
Utility Water System to the remainder  
of YOSEMITE LAKES PARK SUBDIVISION,  
Madera County, California.

Application No. 55097  
(Filed August 8, 1974)

O P I N I O N

By Decision No. 77527 dated July 21, 1970 in Application No. 51679, the Commission granted applicant a certificate of public convenience and necessity authorizing it to construct a public utility water system to serve 518 of the 2,263 lots in its subdivision, which includes approximately 6,700 acres and is located in Madera County, about five miles south of the town of Coarsegold and two miles west of State Highway 41. It is approximately thirty miles north of Fresno. Applicant now seeks a certificate to extend its public utility water system to serve the remaining 1,745 lots in the subdivision, which are to be served as Units 2 through 6. A Commission staff report, hereby incorporated in the record as Exhibit No. 1, presents the results of a review of the application and of a field investigation made in connection with this matter. A letter from applicant's counsel dated May 12, 1975, which provides additional information, will be received in evidence as Exhibit No. 2.

Yosemite Spring Park Utility Co. is owned by Yosemite Lakes, Inc., a California corporation, which is a subsidiary of Titan Group, Inc., a Delaware corporation. It has 57 active residential connections, 7 industrial, and 65 fire hydrants, or 129 total active connections. Transmission and distribution facilities are in the ground and completed in Units 1 and 2. No water mains or services have been installed in Units 3 through 6. Streets are completed in Units 1 and 2, but not in Units 3 through 6. More than 50 wells were drilled to serve the subdivision. Less than half produce an acceptable quantity of water and the possibility of wells being polluted by waste from subdivision septic tanks has prompted applicant to provide two wells on a 20-acre parcel one-half mile from the subdivision in a separate drainage basin. The two wells were tested and produced 36 and 100 gallons per minute. Additional wells will be drilled as required. Applicant has arranged for the Madera Irrigation District to provide 2,000 acre-feet of surface water if an additional supply is needed. Applicant has agreed to test all well water for contamination on a monthly basis. On March 3, 1975, the State Department of Public Health granted a permanent water supply permit for the entire subdivision. There are no other water purveyors close to the subdivision.

The application alleges that a profit will not be earned until the year 1980. The in-tract facilities will be financed under main extension contracts. It will be necessary to extend a water line to the two wells on the 20-acre tract, as well as lines and a treatment plant to obtain the water from the Madera Irrigation District Reservoir. The developer has agreed to provide the facilities to obtain the reservoir water if it is needed. The staff recommended that the terms of the loss reimbursement agreement for the fund established for Unit No. 1 be extended to the remaining units.

Yosemite Lakes, Inc. and the Commission staff agreed during a May 6, 1974 conference that the sum of \$100 per lot, sold or unsold, plus the additional sum of \$50,000 should constitute the Loss Reimbursement Fund. Yosemite Lakes, Inc. has confirmed this by proposed amendments to the Loss Reimbursement Fund, submitted June 13, 1974, which show that the fund shall receive not less than \$10,000 for each six-month period, to a total of \$174,500, plus \$5,000 additional each time the amount in the fund drops below \$3,000, to a total of \$50,000. This provides a fund which includes \$100 for each of the 1,745 lots in Units 2 through 6, whether sold or not, plus an additional \$50,000, if required.

An Environmental Impact Report was filed and adopted by the Madera County Planning Commission, which approved a Negative Declaration on July 2, 1973. It appears that the county has assumed and fulfilled the responsibilities of a lead agency in considering the environmental impact of a total project which includes the water system.

Findings

1. Applicant holds a certificate authorizing it to operate a public utility water system to serve 518 lots in its Unit No. 1.
2. It has applied herein to extend the system to serve the remaining 1,745 lots in the subdivision as Units 2 through 6.
3. It has a water supply permit for the entire subdivision from the State Department of Public Health.

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4. It has satisfied the requirement of having several reliable sources of water, by digging additional wells and contracting to purchase water from the Madera Irrigation District.

5. Madera County has approved the subdivision and the project.

6. Madera County has considered the environmental effect of the total project and issued a Negative Declaration.

7. An Examiner's Ruling was issued on April 11, 1975 which exempted the water system extension from the provisions of the California Environmental Quality Act of 1970, as amended.

8. The Commission has considered the Negative Declaration in rendering its decision on this project and finds that the environmental impact of the proposed project is insignificant and that there are no known irreversible environmental changes involved in the project.

9. The Commission staff has recommended that the application be granted.

10. A public hearing is not necessary.

The Commission concludes that the application should be granted.

#### O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Yosemite Spring Park Utility Co. subject to the conditions of this order authorizing it to construct and operate a public utility water system to serve Madera County Tract No. 168, Units Nos. 2 through 6.

2. Applicant is authorized to apply its presently filed rates and tariff schedules for service provided to customers within Madera County Tract No. 168, Units Nos. 2 through 6.

3. Within ten days after the date service is first rendered to the public within Madera County Tract No. 168, Units Nos. 2 through 6, under the rates and rules authorized herein, 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 its certificated areas. Such filing shall comply with General Order No. 96-A and shall become effective on the fourth day after the date of filing.

5. The authority to serve Madera County Tract No. 168, Units Nos. 2 through 6, granted herein shall expire unless the designated map is filed within one year after the effective date of this order.

6.a. Applicant shall enter into a loss reimbursement agreement in a form acceptable to the Commission which requires the developer to pay to applicant \$100 per lot in Madera County Tract No. 168, Units Nos. 2 through 6, to pay out-of-pocket expenditures which exceed gross operating revenues. The payments into the fund shall not be less than \$10,000 each six-month period after the effective date of this order to the total amount of \$174,500, and in addition the sum of \$5,000 shall be paid into the fund each time the amount in the fund is less than \$3,000, until the total amount of \$50,000 has been so paid. Such resultant fund is to be deposited in an interest-bearing special fund account of the utility separate from other cash accounts with a bank or savings and loan association in California. Further, the fund 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 excluding any management fees or salaries paid to stockholders or affiliated developers. Expenditures from the fund for replacement of plant facilities may be made only after letter approval from this Commission.

b. Upon the fifteenth anniversary of the initial deposit, any amount remaining in the special fund not utilized for the purposes set out above shall be refunded to the developer or paid to its designee. Applicant shall provide the developer with a statement not later than March 31st 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. A copy of this statement shall concurrently be filed with the Commission, attention of the Finance and Accounts Division. Two copies of this agreement shall be filed with the Commission concurrently with the filing of the tariff service area map authorized in Ordering Paragraph 4 of this decision.

7. Applicant shall not recover costs for the operation and maintenance contract in excess of amounts that can be substantiated by invoices and/or time sheets for actual tasks performed.

8. Applicant is authorized to deviate from Section A.2.a., Limitation of Expansion, of its filed main extension rule by extending service to Madera County Tract No. 168, Units Nos. 2 through 6.

9. Applicant shall execute an agreement with the developer which provides that the developer agrees to convey the main extension contract authorized herein to the utility to be held alive as an investment, subject to further order of the Commission, with refunds being credited to the utility's capital surplus as they become due, subject to further order of the Commission.

10. Within thirty days after the effective date of this decision applicant shall file with this Commission a depreciation review by individual plant accounts. Applicant shall review its future depreciation rates at intervals of three years and whenever a major change in depreciable plant occurs. Any revised depreciation rates shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of the plant; (2) dividing the result by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of the plant. The results of each review shall be submitted promptly to the Commission and upon recognition by the Commission that the rates are acceptable, applicant shall use such revised rates in recording future depreciation accruals.

11. Applicant shall not extend its facilities or offer to provide service to be used outside its certificated area without further authorization of this Commission.

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

Dated at San Francisco, California, this 29<sup>th</sup> day of JULY, 1975.

William Sproule President  
Vernon L. Stutzgen  
[Signature]  
[Signature] Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.