

Decision No. 85088

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Santa Clarita Water Company for
Authority to Expand its Public Utility
Service Area in a portion of Northeast
Los Angeles County.

Application No. 54934
(Filed June 5, 1974;
amended April 28, 1975)

Application of VALENCIA WATER COMPANY,
A corporation, For Authority to Expand
its Public Utility Service Area in Los
Angeles County, California.

Application No. 55075
(Filed July 29, 1974;
amended April 28, 1975)

SANTA CLARITA WATER COMPANY,
Complainant,

vs.

VALENCIA WATER COMPANY,
Defendant.

Case No. 9766
(Filed July 16, 1974)

William G. Fleckles, Attorney at Law, for
Santa Clarita Water Company, applicant in
A. 54934 and complainant in C. 9766.
Overton, Lyman & Prince, by Donald H. Ford and
Wayne Knight, and Richard C. Hackney, for
Valencia Water Company, applicant in A. 55075
and defendant in C. 9766.
Peter Arth, Jr., Attorney at Law, for the
Commission staff.

FINAL OPINION

Background

On June 5, 1974, Santa Clarita Water Company (Clarita)
filed its Application No. 54934 seeking ex parte authority to expand
its tariff service area to include an area of approximately 1,500 acres.

On June 18, 1974, Valencia Water Company (Valencia) filed its letter protest to the application. Among other things pointed out in Valencia's protest was the fact that 900 of the 1,500 acres were owned by its parent, Newhall Land and Farming Company (NL&FC), and that it had always been Valencia's plan to serve this area. On June 20, 1974, Clarita requested the Commission to order both utilities to refrain from extending into the 1,500-acre area and/or from serving any customers therein not presently served pending a decision on the application. This request was based upon the allegation that on or about July 12, 1974, Valencia commenced installing a 12-inch steel transmission main within the 1,500-acre area. Clarita filed a complaint for injunctive relief on July 16, 1974. The Commission issued a temporary restraining order on July 23, 1974 (Decision No. 83191) against extension by both water companies and scheduled a hearing on the matter. On July 29, 1974, Valencia filed its Application No. 55074 seeking authority to extend its service area into a portion of the same area for which Clarita seeks authority. By Decision No. 83448 dated September 11, 1974, we partially lifted the Temporary Restraining Order outstanding against both applicants.

Further hearing on the cross-applications and the complaint was held on April 28, 1975 before Examiner Bernard A. Peeters in Los Angeles. The matters were submitted on said date subject to the filing of two late-filed exhibits, which have been received.

The purpose of the adjourned hearing was to receive evidence to determine which applicant should be certificated to serve all or part of the 1,500 acres in the Newhall area which both applicants were seeking to serve, to resolve the complaint matter, and to consider final action with respect to the temporary restraining order. The matter is now ready for a final decision.

At the adjourned hearing the parties agreed to the following stipulation which was orally entered into the record:

Clarita amends its application by reducing the area sought to be served to include only the proposed mobile home park known as the Cordova Mobile Home Estates West, consisting of approximately 22 acres; and withdraws its complaint.

Valencia amends its application by withdrawing its request to serve 900 acres located in the 1,500 acres under dispute, and substitutes therefor a request to serve only the administrative buildings of the Saugus Elementary School District (District).

Clarita presented evidence through Peter C. Kremer, executive vice-president, of NL&FC with respect to the mobile home park. Valencia put in its evidence regarding the District through its president/general manager. The staff introduced Exhibit 9 through a staff engineer.

In view of the amended applications and withdrawal of the complaint, the only issues to be decided are:

1. Whether the applications should be granted, as amended?
2. Whether the restraining order still remaining in effect should be vacated?
3. Whether the staff recommendation that future extensions by applicants into the 1,500-acre area should be made by the filing of formal applications rather than advice letter filing should be implemented?
4. Whether the Commission can rely upon the environmental review of the proposed mobile home park by the Los Angeles Regional Planning Commission?

Discussion

NL&FC's executive vice-president testified that his company is the owner and developer of the mobile home park under consideration here, and that they are requesting water service to the

park be provided by Clarita. NL&FC is the applicant for the conditional use permit issued by the Department of Regional Planning, County of Los Angeles to construct the mobile home park (Exhibit 6). Exhibit 6 contains a negative declaration with respect to the environmental impact of the park, as well as the legal description of the property.

Valencia's president/general manager testified about the need of water by the District. District's present water supply is from an irrigation well. The County Health Department has requested District to discontinue use of this well. District's administration building lies within the 900 acres originally sought by Valencia. Valencia is the logical purveyor of the needed water supply since its main water supply line crosses District's line and would involve only the setting of a meter.

The staff recommends that a certificate be granted to Clarita to serve the mobile home park, and is of the opinion that Valencia can provide adequate service to the District's administration building. In view of the stipulation of the parties, and the staff position, we shall authorize the requests.

Should the temporary restraining order be vacated in its entirety? The staff recommends that completion of the transmission pipeline by Valencia to include Wells U3, U4, and U5 be authorized since it would permit the replacement of the water supply from Valencia's Wells R2 and 158. The recommendation is also made that Valencia be allowed to continue the transmission pipeline to include all the wells offered to it by NL&FC, Valencia's parent, because an additional water supply is needed. This recommendation, coupled with the fact the complaint has been withdrawn, and Clarita's agreement with the staff's recommendation, is sufficient grounds to vacate the restraining order pertaining to the pipeline extension.

There remains that portion of the restraining order which prohibits both utilities from extending service into the disputed area pending decision on the consolidated matters. The staff takes the position that future extensions into the 1,500-acre area by either applicant should be sought only by formal application. The rationale for this recommendation is that under a formal filing, the applicant is required to comply with Rule 18 of our Rules of Practice and Procedure, thus providing the staff with sufficient information to evaluate the extension. It is stated that under the advice letter procedure, General Order No. 96-A^{1/}, insufficient detail is provided, that there is no notice to public, as in the case of a formal application, the extensions may be for small parcels resulting in an uneconomical and unengineered development which could end in duplication of facilities and result in excessive investment for which the ratepayer would ultimately have to pay. There is also the possibility of inadequate facilities being installed in the first extension which would have to be re-engineered for another extension.

Cross-examination of the staff witness developed that his recommendation was intended to apply only to the two applicants here in connection with the 1,500 acres originally involved. It was developed that it was within the staff's power and control, under the advice letter procedure, to require the same information that would be produced under the formal filing procedure. The difference being, as stated by the staff engineer, that in the advice letter method, the burden is on the staff to develop or procure the information from the utility, whereas under the formal procedure the burden is on the applicant.

^{1/} General Order No. 96-A, paragraph I.E., New Territory. "The utility shall, before commencing service, file tariff service area maps for extensions into territory contiguous to its line, plant, or system and not theretofore served by a public utility of like character."

Clarita vigorously opposed the staff's recommendation and was joined by Valencia. It was argued that the formal procedure route was very expensive, unwieldy, time consuming, and inflexible. For example, the mobile home park originally was to consist of 135 acres. Now it has been reduced to 22 acres with 167 spaces. If, in the future, 15 more spaces were to be added involving two additional acres, under the staff's recommendation, authority for the extension of service to the two acres would have to be sought by a formal application. This would be making a mountain out of a mole hill.

As we see the problem, the staff seeks to implement the certification requirement, while applicants seek to exploit the statutory privilege in Section 1001 of the Public Utilities Code.^{2/}

Applicants' argument misses the point. In the extreme example given, the extension ordinarily could be made under their existing tariff main extension rule. But here we have competing utilities for 900 of the 1,500 acres; there remains a future potential conflict which the staff seeks to avoid. While the utility has a statutory right to expand its service area by unilateral action under Section 1001, this is a limited statutory exemption from the general rule which requires certification. The filing of a tariff service area map under Section 491 and General Order No. 96-A does not have the effect of making the area part of the utility's service area until it is physically interconnected with the utility's system in accordance with law or a valid main extension contract. (Antelope Valley Water Co. (1972) 73 CPUC 485, 489-90.)

^{2/}"1001. No...water corporation...shall begin the construction of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction.

"This article shall not be construed to require any such corporation to secure such certificate for an extension...into territory...contiguous to its...line, plant, or system, and not theretofore served by public utility of like character,..."

The use of the advice letter procedure, as advocated by applicants, with respect to the 1,500-acre area, could create the problems alluded to by the staff engineer. One of the important benefits to the utility, and to the public, of the certification procedure required by Section 1001 is the opportunity for the Commission to review the adequacy of proposed facilities, the economic feasibility of the proposed operation, and the financial resources of the utility prior to commencement of construction. It is more economical to install an adequate system at the outset than to correct deficiencies at a later date. (Johnson v Stark (1967) 67 CPUC 632, 633.)

Our attention was directed to Rule 87 of our Rules of Practice and Procedure^{3/} as justification for using the advice letter procedure. Under the circumstances here, we do not believe that Rule 87 is applicable.

Exhibit 6 was received into evidence as a late-filed exhibit as a result of staff counsel's concern over lack of consultation with the Commission in connection with the Regional Planning Commission's negative declaration in connection with the mobile home park. By letter of May 19, 1975, of which we take official notice, staff counsel advised the examiner that after reviewing Exhibit 6, which contains the environmental document, it was concluded that the Commission can rely upon the environmental review

^{3/}"87. (Rule 87) Construction and Amendment. These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, the Commission may permit deviations from the rules. Rules may be amended at any time by the Commission."

and findings therein as a basis for meeting the requirements of the California Environmental Quality Act in connection with the subject applications. We have also reviewed Exhibit 6. With the testimony in the record that the utilities will have to do no more to serve the mobile home park and District's administration building than to set a meter for each of the connections, we are of the opinion that this will not have a significant adverse effect upon the environment.

With respect to the staff's Motion For Partial Dismissal of Application No. 54934, and applicants' motion requesting the issuance of a negative declaration, both matters have been mooted by subsequent developments. Therefore, for the purpose of disposition, we will deny the motions.

Findings

1. Clarita amended its application on the record. The area now sought to be served is approximately 22 acres located on the northerly side of Soledad Canyon Road, 1,000 feet west of Cottonwood Avenue in the Newhall Zoned District of Los Angeles County. It is the site of a proposed mobile home park known as the Cordova Mobile Home Estates West. The legal description of the site is set forth in Appendix A hereto.

2. Clarita withdrew its complaint against Valencia.

3. Valencia amended its application on the record. The area now sought to be served is 4 acres on which is located the administration building of the District.

4. Public convenience and necessity require that Clarita be authorized to serve the site of the proposed Cordova Mobile Home Estates West.

5. NL&FC, the owner of the 22-acre site of the mobile home park, has requested Clarita to provide water service to the proposed park.

6. The administration building of the District lies within the 900-acre area originally sought by Valencia.

7. The present water supply of the administration building is from an irrigation well. The Los Angeles County Health Department has requested District to discontinue use of this well for domestic purposes.

8. Public convenience and necessity require that Valencia be authorized to serve the administration building District. A legal description of the site is set forth in Appendix B hereto.

9. Valencia has a need for additional water supply.

10. Clarita and Valencia are competing water purveyors to provide service to a 1,500-acre unincorporated area near Saugus.

11. The reasons for the temporary restraining order in Decision No. 83191 in Case No. 9766 and Application No. 54934 are no longer applicable.

12. It can be seen with reasonable certainty that the project involved in these proceedings will not have a significant effect on the environment.

Conclusions of Law

1. Applicants should be granted certificates of public convenience and necessity as requested under their amended applications.

2. Valencia should be permitted to complete its transmission main to include Wells U3, U4, and U5.

3. Valencia should be authorized to continue the transmission pipeline to all wells offered to it by its parent, NL&FC.

4. The temporary restraining order in Decision No. 83191 should be vacated.

5. Future extensions by Clarita and Valencia into the 1,500-acre unincorporated area near Saugus should be made by formal application.

FINAL ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Santa Clarita Water Company authorizing it to serve the 22-acre site of the proposed Cordova Mobile Home Estates West more particularly described in Appendix A.

2. A certificate of public convenience and necessity is granted to Valencia Water Company authorizing it to serve a 4-acre parcel containing the Saugus School District administration building, more particularly described in Appendix B.

3. Applicants are authorized to file, after the effective date of this order, a tariff service area map clearly indicating the boundaries of their certificated areas. Such filings shall comply with General Order No. 96-A and shall become effective on the fourth day after the date of filing.

4. Compliance by applicants with paragraph 3 of this order shall constitute acceptance by them of the right and obligation to furnish public utility water service to the areas certificated herein. 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, applicants shall file in this proceeding written notice thereof to this Commission.

6. All motions not heretofore ruled upon are denied.

7. Decision No. 83191 is vacated.

8. Future extensions into the 1,500-acre unincorporated area near Saugus by Santa Clarita Water Company and Valencia Water Company are prohibited unless first authorized by this Commission.

9. Valencia Water Company is authorized to complete its transmission main to include Wells U3, U4, and U5, and is further authorized to continue the transmission pipeline to all wells offered to it by Newhall Land & Farming Company.

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

Dated at San Francisco, California, this 12th day of NOVEMBER, 1975.

William J. Lyons President
Robert Batinovich
Alfonso
Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Legal Description of 22-Acre Site
of Proposed Mobile Home Park Known as
Cordova Mobile Home Estates West

Being a portion of the Rancho San Francisco, in the County of Los Angeles, State of California, as per map recorded in Book 1, Pages 521 and 522 of Patents, in the Office of the County Recorder of said County and being more particularly described as follows:

Commencing at the easterly terminus of that certain course in the proposed centerline of Soledad Canyon Road, as shown on County Surveyor's Map No. B-2874, Sheet 3, said course having a bearing of North $58^{\circ}37'12''$ East and a length of 2019.96 feet; thence North $31^{\circ}22'48''$ West, 60.00 feet to the TRUE POINT OF BEGINNING; thence along the northwesterly right-of-way line of Soledad Canyon Road, South $58^{\circ}37'12''$ West, 740.71 feet; thence North $11^{\circ}33'40''$ West, 1092.45 feet; thence North $78^{\circ}26'20''$ East, 100.00 feet; thence South $89^{\circ}37'00''$ East, 185.00 feet; thence North $76^{\circ}40'00''$ East, 125.00 feet; thence North $66^{\circ}15'00''$ East, 396.00 feet; thence North $52^{\circ}05'00''$ East, 320.00 feet; thence North $44^{\circ}43'00''$ East, 70.00 feet; thence North $29^{\circ}43'00''$ East, 130.00 feet; thence North $38^{\circ}40'00''$ East, 106.00 feet; thence North $46^{\circ}30'00''$ East, 95.00 feet; thence North $71^{\circ}45'00''$ East, 60.00 feet; thence South $85^{\circ}05'00''$ East, 70.00 feet; thence South $76^{\circ}00'00''$ East, 230.00 feet; thence North $84^{\circ}34'50''$ East to an intersection with the northerly boundary line of that certain parcel of land described in Instrument No. 3017 recorded on June 13, 1966; thence South $56^{\circ}33'56''$ West, 290.00 feet along said northerly boundary; thence, leaving said northerly boundary, South $24^{\circ}58'15''$ West, 393.66 feet; thence South $18^{\circ}41'14''$ East, 107.68 feet; thence South $63^{\circ}08'55''$ East, 223.61 feet; thence South $72^{\circ}55'06''$ East, 100.43 feet; thence South $12^{\circ}35'29''$ East, 259.59 feet to an intersection with the hereinbefore mentioned northwesterly line of Soledad Canyon Road; thence southwesterly along said northwesterly line (being a non-tangent curve concave southeasterly and having a radius of 3027.83 feet) for an arc length of 992.90 feet, more or less, to the TRUE POINT OF BEGINNING.

APPENDIX B

Legal Description of Site of Saugus
School District's Administration Building

That portion of Rancho San Francisco, as shown on the map recorded in Book 1, Pages 521 and 522 of Patents, records of Los Angeles County, State of California, described as follows:

Commencing at a point on that certain 11th course recited as South 32°38'35" West, 1829.58 feet of parcel "A" as described in the easement grant to Valencia Water Company recorded on October 23, 1970 as Document No. 3496 in Book D4869, Page 716 in the office of the County Recorder of said county said point being at a distance of 203.55 feet from the southwesterly terminus of said 11th course; thence South 58°23'09" East, 103.00 feet; thence South 60°43'09" East, 198.40 feet; thence South 85°13'39" East, 70.68 feet, thence North 79°49'51" East, 105.24 feet; thence North 76°58'21" East, 70.30 feet; thence South 84°15'49" East, 436.89 feet; thence South 63°41'29" East, 139.03 feet, thence South 54°07'39" East, 118.66 feet; thence South 55°45'09" East, 117.23 feet; thence South 56°26'59" East, 198.81 feet; thence South 62°51'46" East, 160.85 feet; thence South 66°25'24" East, 120.79 feet; thence South 78°35'54" East, 408.41 feet; thence South 60°29'54" East, 109.38 feet; thence South 47°58'14" East, 130.58 feet; thence South 39°00'59" East, 101.85 feet; thence South 30°04'49" East, 406.12 feet; thence South 39°00'19" East, 153.33 feet; thence South 46°20'19" East, 155.64 feet; thence South 59°31'39" East, 86.43 feet; thence South 56°35'39" East, 90.63 feet; thence South 44°18'09" East, 1101.19 feet; thence North 74°00'00" East, 315.00 feet; thence North 46°30'00" East, 440.00 feet to the TRUE POINT OF BEGINNING; thence

- 1ST. North 25°00'00" West, 290.00 feet; thence
- 2ND. North 33°00'00" East, 235.00 feet; thence
- 3RD. North 79°00'00" East, 380.00 feet; thence
- 4TH. South 48°00'00" East, 130.25 feet; thence at right angles
- 5TH. South 42°00'00" West, 672.34 feet; thence
- 6TH. North 25°00'00" West, 60.00 feet to the TRUE POINT OF BEGINNING.

The above described parcel of land contains an area of 4.02 acres.