

Decision No. 85732

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the
Application of CITIZENS UTILITIES
COMPANY OF CALIFORNIA, a California
Corporation, for a Certificate of
Public Convenience and Necessity to
exercise a franchise as granted by
the County of Sacramento.

Application No. 56323
(Filed March 10, 1976)

O P I N I O N

This is an application by Citizens Utilities Company of California seeking authority to exercise the rights and privileges granted them by the County of Sacramento.

Applicant presently is engaged in the distribution and sale of water within portions of the County of Sacramento pursuant to authority issued by this Commission. Applicant also provides water service in parts of Alameda, Santa Clara, Santa Cruz and Sonoma Counties. The verified application states that the Board of Supervisors of the County of Sacramento enacted Ordinance No. 1158 which grants applicant a franchise for 50 years to conduct their water business within the county.

Ordinance No. 1158 is attached to the application as an exhibit. Examination of the ordinance indicates that the franchise granted therein is of the standard type between water utilities and counties. It provides for a payment of 2 percent of applicant's annual gross receipts arising out of the use, operation or possession of the particular franchise.

The Commission is of the opinion that the application should be granted. No other points require discussion.

Findings of Fact

The Commission finds that:

1. A public hearing is not necessary in this matter.
2. Public convenience and necessity require the exercise by Citizens Utilities Company of California of the rights and privileges granted in the franchise conferred by Ordinance No. 1158 of the Board of Supervisors of the County of Sacramento.

Conclusions of Law

The Commission concludes that:

1. The application should be granted.
2. The certificate of public convenience and necessity issued herein is subject to the following provisions of law:
 - a. 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.
 - b. The franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

O R D E R

IT IS ORDERED that a certificate of public convenience and necessity is granted to Citizens Utilities Company of California to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 1158 of the Board of Supervisors of the County of Sacramento.

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

Dated at San Francisco, California, this 27th day of APRIL, 1976.

James H. ...
Commissioner

Robert Betman
Commissioner

[Signature]
President

William ...
[Signature]

Commissioners

A. 56323
D. 85732

COMMISSIONERS BATINOVICH AND ROSS DISSENTING

This decision grants a certificate of public convenience and necessity to Citizens Utilities Company for an area of several square miles in the northern portion of Sacramento County. The greater part of this area is currently undeveloped farmland with a much smaller section containing the Linwood subdivision. In 1975 Citizens purchased the water system serving this subdivision.

The Rio Linda Water District has a service area adjoining the certificated area to the southwest. However, no protest to this certification was received from this District or from any other party.

Currently, Citizens holds a franchise to serve as a water utility in this area. This franchise was granted in 1975 by the Sacramento County Board of Supervisors.

It must be acknowledged that this Commission has the obligation to carefully consider the instant circumstances before issuing a certificate of public convenience and necessity. This responsibility is not nullified by the lack of an opposing party even where the affected public is fully informed and capable of acting. How much closer should our scrutiny be here where there is, as yet, no interested party but the applicant?

Nor does the granting of a franchise by the county absolve this Commission from making a considered judgment of public convenience and

necessity. This is particularly significant as the lack of a franchise does not bar a public water district from providing service within the franchised area.

There has been no showing by the applicant or our Staff that the applicant is capable of providing adequate service at reasonable cost to the area for which it has been certified. Further, there has been no showing that superior service or lower rates could not be provided by alternative means.

Indeed, no such showing may now be possible. Outside of the subdivision already being served, there is no current demand for service. No showing was made as to the location, extent, or probability of future development. Nor was consideration given to the county's plan for this area.

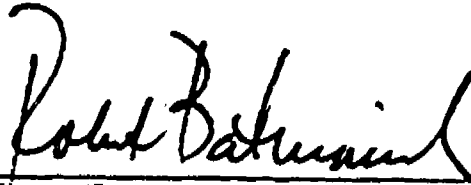
Under the circumstances it seems unlikely that Citizens has any immediate plans to construct facilities for serving this area. Thus, the certification at this time might only serve to pre-empt the possibility of others from serving in this area at a later time.

For the aforementioned reasons it is our position that there has been no adequate showing that the public interest is served by this certification, and that such a determination could best be made after hearing.

This Commission must face the fact that it has in the past contributed to the problems of California water users by inadequate consideration of certificates of public convenience and necessity. With water companies the proverb "an ounce of prevention is worth a pound of cure" finds ample validation.

A. 56323
D. 85732

Dated: April 27, 1976
San Francisco, California



Robert Batinovich, Commissioner



Leonard Ross, Commissioner