

Decision No. 86866

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Starlite Water Company, for a Certificate of Public Convenience and Necessity to operate a public water system near Bishop in Inyo County and to establish rates for service.

Application No. 56428
(Filed April 23, 1976)

Willis Smith, Attorney at Law, for Starlite Water Company, applicant.
John Bealesio, for customers of Starlite Estate; and Thomas A. Ledoux, for himself; interested parties.
Elmer Sjostron, Attorney at Law, Eugene M. Lill, and I. B. Nagao, for the Commission staff.

O P I N I O N

Applicant seeks authority to operate a water system in Tracts 1, 2, 3, and 118 of Starlite Estates, located eight and one-half miles southwest of Bishop, California, and one-half mile west of State Highway 168, in Inyo County. The system will serve a 36-acre subdivision of 44 lots, with an average size of 30,000 square feet. The area is a basin, ranging from 5,800 to 5,900 feet above sea level, with an average slope of 2½ percent. It is classified as a rural-residential subdivision, with lots to be sold without homes. The water system has been completed and is designed to serve 44 lots. The sole source of water consists of two wells with pumps having a delivery capacity of 50 gpm and a 47,000-gallon underground concrete storage reservoir. Only 13 of the lots have less than 40 pounds water pressure and all lots will have 40 pounds when a booster pump is installed.

The staff engineering report (Exhibit 2) indicates that the undeveloped land and water systems are owned in joint tenancy by four members of the Freeman family of Bishop. On February 20, 1976, the Freemans filed articles of incorporation on the Starlite Water Company. The articles provide for the issuance of 7,500 shares of stock with a \$10 par value. More than \$35,000 worth of stock has been issued and the Freemans hold all of it.

The report notes that the entire development will cover 160 acres, divided into 230 lots. The current subdivision is 49 lots; 44 will be served by the water system and 5 have individual wells; 29 lots have been sold and the water company has been selling water to 24 lot-owners since January 1976. Applicant's present and proposed monthly metered rates are as follows:

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 1,000 cu.ft.	\$5.00
Next 2,000 cu.ft., per 100 cu.ft.35
Next 2,000 cu.ft., per 100 cu.ft.25
Over 5,000 cu.ft., per 100 cu.ft.20
Minimum Charge:	
For 3/4-inch meter	\$6.00
For 1-inch meter	9.30
	<u>Per Month</u>
Fire Hydrant Rates:	
For each hydrant	\$4.50

There are no other private or publicly owned water systems within five miles of applicant's service area and the staff has confirmed that no other water company is interested in the subdivision. The staff further confirmed that after a meeting, residents of the subdivision rejected the suggestion that a Community Services District be formed and approved applicant's organization as a public utility.

The system is supplied from a primary well with a depth of 168 feet and a 155-foot secondary well. Both wells are located in the northeast corner of the subdivision and construction has started on a well in the southeast corner. The primary well is connected to a 47,500-gallon concrete storage tank in the southeast corner of the subdivision by a six-inch polyvinyl chloride (PVC) transmission line. A float valve in the storage tank controls the flow of water from the well pump. Water is continually pumped as long as the float valve is open. Operation of the storage facility is entirely hydraulic. There are no electric controls or systems. Distribution is through 5,600 feet of class 160 polyvinyl chloride (PVC) six-inch pipe. The distribution system is noncirculating, but sufficient additional pipe has been purchased to construct a loop and insure the necessary circulation. Service to individual lots consists of 1,250 feet of one-inch PVC lines connected to the six-inch mains which branch to 3/4-inch PVC service lines to each house. Meters are installed on all service connections and there will be six fire hydrants on the system serving the 44 lots. Three of the hydrants are not installed because they have not been received from the manufacturer.

Rate base is developed in the following table:

	<u>1st Year</u> (1976)	<u>5th Year</u> (1981)	<u>10th Year</u> (1986)
Gross Plant	\$31,287	\$40,994	\$40,994
Less:			
Reserve for Depreciation	2,070	5,129	9,967
Less:			
Advances	-	-	-
Contribution	-	-	-
Plus:			
M & S	100	100	100
WCA	300	700	900
Rate Base	29,617	36,665	32,027

The representative from the Commission's Finance and Accounts Division expressed concern over the financial stability of applicant. It was noted that since the pipes are already in the ground it will be difficult to determine if the system was constructed as required by Commission General Order No. 103. This problem was alleviated when proof was presented that the system was designed and constructed by a qualified civil engineer who has worked on other water systems. It was concluded that applicant will lose money during the first five years of operation and cannot pay ordinary expenses out of the income from the sale of water. This conclusion is based on future expenses for power and taxes as estimated by the staff engineer. The same expenses estimated by the applicant were about half of the staff estimate. The staff suggested that a loss reimbursement fund be created by the applicant. The developer would deposit \$500 in a special fund for each lot in the subdivision to be served by the system, including the lots already sold. This fund would supposedly guarantee a reserve for the payment of bills over the first ten years of applicant's operation. Developer's representative

testified that small down payments are made on almost all lots sold; if he is required to immediately establish a fund, the money will have to be borrowed at a high rate of interest that would create a serious financial burden for him.

The staff accountant recommended that any certificate of public convenience and necessity be conditioned upon applicant agreeing to sell the water system to a mutual water company or public agency upon order of this Commission, if in the future the customers desired to serve themselves. The sales price would be the termination value of the main extension agreements plus the depreciated book value of only those source and/or storage facilities that the purchaser would desire to acquire. In lieu of paying the termination value of the main extension agreements, the purchaser would have the option of assuming the liability for such contracts under the main extension rule.

The intent of the foregoing recommendation was to give the customers a method of acquiring the water system if service deteriorated or if they desired to serve themselves for other reasons. Also, this recommendation would prevent the owner of the water system from demanding an exorbitant price if the customers sought to acquire it.

Discussion

Applicant was willing to accept most of the staff recommendations. Applicant objected to establishing a loss reimbursement fund. Applicant also objected to having to agree to sell the water system under the recommended conditions if ordered to do so by the Commission.

The factual situation of a small water company initiated by individuals who also have ownership interests in land which they intend to develop and have served by the water company is a recurring one before the Commission.

The spectators at the hearing unanimously favored continued service by applicant. They should be aware, however, as should future customers of this water company, that it is too small to become economically viable in the near future. Revenues for the 44 lots involved in this proceeding are unlikely to increase to an amount that will enable the company to support even one full-time employee.

Customers also should be aware of the possibility that where the owner of the water company and the owner of the land to be potentially served are one and the same, the owner may lose interest in it after his lots have been sold, and he may be reluctant to continue to devote time and money to subsidizing a losing venture that has little likelihood of ever becoming a successful operation. The Commission has in these instances attempted to assure some funds for operating expenses for the foreseeable future by ordering the establishment of a loss reimbursement fund, under Commission control, from which limited operating expenses may be paid. We shall order one to be established, as recommended by the staff, and the order in this proceeding will spell out the terms and conditions of such an agreement. We cannot emphasize too strongly, however, the possibility that, in the future, customers of this water company may be confronted with a situation in which they will be called upon to find another method of providing water service to their lots. This might be by formation of a mutual water company, by a public district, or even, in desperation, by drilling their own wells. Because of this possibility, we shall require applicant to agree to sell the water

company to its customers under the terms and conditions recommended by the staff accountant. This will provide a method for the customers to serve themselves if applicant's quality of service deteriorates or otherwise is unsatisfactory.

Applicant's present stock issue is a nullity. It will be necessary for applicant to apply to this Commission for authority to issue stock pursuant to Sections 816 et seq. of the Public Utilities Code. The par or stated value of such stock shall be limited to the amount invested in source and storage facilities.

Applicant is further directed to enter into a standard form of water main extension agreement with the developer covering the cost of all water mains, services, and hydrants. Applicant and developer shall agree that all refunds on such water main extension agreements shall be credited to surplus as they are earned.

Findings

1. Applicant has been operating as a public utility since January 1976.
2. Applicant also has substantial ownership interests in land which is intended for development and sale to individuals who will become customers of the water company.
3. A certificate of public convenience and necessity should be granted subject to conditions set forth in the ensuing order.
4. The water system should be upgraded to meet the requirements of General Order No. 103 in Tract 118, and pressure boosters should be installed to provide a minimum 40 psi pressure to all services.
5. Applicant should not extend beyond Tracts 1, 2, 3, and 118 or contract to serve additional customers without first obtaining authority from this Commission.
6. Applicant's issue of stock is a legal nullity.

7. The water system is not economically self-sufficient now, and it is unlikely to grow to a size where it will become self-sufficient in the near future; thus a sizeable loss reimbursement fund is necessary.

8. A feasible long-term solution that will protect ratepayers from deteriorating service is an agreement by the applicant to sell the system to its customers if so ordered by this Commission.

Conclusions

1. Authority to issue stock as a public utility must be obtained from this Commission.

2. The application should be granted subject to the conditions set forth in the ensuing order.

3. A certificate of public convenience and necessity should be granted subject to the conditions set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Starlite Water Company, a California corporation, authorizing it to operate and extend its public utility water system to serve 44 connections from Tracts 1, 2, 3, and 118 of Starlite Estates, near Bishop, California.

2. Applicant is authorized to file, after the effective date of this order, the schedule of rates set forth in Appendix A of this order and a tariff service area map clearly indicating the boundaries of the certificated area, including all areas served as of October 1, 1976, appropriate general rules, and copies of printed forms to be used in dealing with customers. Such filing shall comply with General Order No. 96-A.

3. Applicant shall prepare and keep current the system map required by paragraph 1.10.a of General Order No. 103. Within six months after the effective date of this order, applicant shall file with the Commission two copies of such map.

4. The water system shall be upgraded in Tract 118, if necessary, to meet the requirements of General Order No. 103 and boosters shall be installed to provide a minimum of 40 psi pressure at all 44 service connections.

5. Applicant shall enter into a water main extension agreement with the developer covering the cost of all mains, services, and hydrants. The agreement shall provide that all refunds earned on water main extension agreements shall be credited to the utility's surplus account as earned. This last condition, relating to crediting of refunds to surplus, shall become void if the water system is acquired by a public agency or is converted into a mutual water company.

6. Within one hundred twenty days after the effective date of this order, Starlite Water Company shall enter into a loss reimbursement agreement with developer, in a form acceptable to the Commission, which requires the developer to pay to the utility and be deposited in a separate interest-bearing account in a bank or savings and loan association in California an amount of \$500 upon the initial sale or transfer of any lot within Tracts Nos. 1, 2, and 3 (excluding Lots 1, 3, and 5 in Tract 1), Parcels 1 and 2 of Parcel Map 36, and proposed Tract 118, sold subsequent to September 20, 1976. 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:

- a. 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
- b. Replacement or improvement of plant facilities of the water utility provided that such expenditures have first been authorized by a letter from the Executive Director of this Commission.
- c. A maximum of ten percent (10%) of the cumulative amount paid into the fund, exclusive of disbursements therefrom shall be utilized to pay the above expenses in any single year.
- d. No amount in this fund shall be disbursed to pay salaries or expenses of owners, officers, or members of owners' family.

Upon the twentieth 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. Starlite Water Company 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 the loss reimbursement agreement shall be filed with the Commission within ten days after the execution thereof.

7. Applicant shall agree, in writing, as a condition of being granted a certificate, that upon order of this Commission, it will sell the water system to a mutual water company or public agency. The sales price shall be the termination value of the main extension agreements plus not more than the depreciated book value of only those source and/or storage facilities or other plant that the purchaser desires to acquire. In lieu of paying the termination value of the water main extension agreements, the purchaser shall have the option of assuming the liability for such contracts under the water main extension rule.

8. Applicant shall arrange with the developer to provide a copy of this decision to each current customer, and to each prospective customer prior to purchase of a lot. The intent of this order is to make current and prospective customers aware of the water problems that they may face in the future. Applicant shall obtain and permanently preserve a signed and dated receipt for each copy of the decision that is distributed in this manner. Property resales not directly involving either the developer or applicant are excluded from the requirements of this ordering paragraph.

9. Applicant shall not extend its service outside of Tracts 1, 2, 3, and 118, nor to more than 44 customers without first obtaining additional authority from this Commission.

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

Dated at San Francisco, California, this 18th day of JANUARY, 1977.

Robert Bakunin
President
William Synovick
Vernon J. Sturgeon
Thomas Ross
Commissioners

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Schedule No. 1A

ANNUAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on an annual basis.

TERRITORY

Starlite Estates Subdivision Tracts Nos. 1, 2, 3, and 118, located $8\frac{1}{2}$ miles southwest of Bishop, Inyo County.

RATES

Monthly Quantity Rates:

	<u>Per Meter Per Month</u>
First 1,000 cu.ft. or less	\$5.00
Next 2,000 cu.ft., per 100 cu.ft.35
Next 2,000 cu.ft., per 100 cu.ft.25
Over 5,000 cu.ft., per 100 cu.ft.20

Annual Minimum Charge:

	<u>Per Meter Per Year</u>
For $5/8 \times 3/4$ -inch meter	\$ 60.00
For $3/4$ -inch meter	72.00
For 1-inch meter	111.60

The Annual Minimum Charge will entitle the customer to the quantity of water each month which one-twelfth of the annual minimum charge will purchase at the Monthly Quantity Rates.

(Continued)

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Schedule No. 1A

ANNUAL METERED SERVICE
(Continued)

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated minimum charges in advance at intervals of less than one year (monthly, bimonthly, or quarterly) in accordance with the utility's established billing periods for water used in excess of the monthly allowance under the annual minimum charge. When meters are read bimonthly or quarterly, the charge will be computed by doubling or tripling, respectively, the number of cubic feet to which each block rate is applicable on a monthly basis except that meters may be read and quantity charges billed during the winter season at intervals greater than three months.

2. The opening bill for metered service shall be the established annual minimum charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

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Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, organized fire districts, and other political subdivisions of the State.

TERRITORY

Starlite Estates Subdivision Tracts Nos. 1, 2, 3, and 118, located 8½ miles southwest of Bishop, Inyo County.

RATE

	<u>Per Month</u>
For each hydrant	\$4.50

SPECIAL CONDITIONS

1. Water delivered for purposes other than fire protection shall be charged for at the quantity rates in Schedule No. 1A, Annual Metered Service.
2. The cost of relocation of any hydrant shall be paid by the party requesting relocation.
3. Hydrants shall be connected to the utility's system upon receipt of written request from a public authority. The written request shall designate the specific location of each hydrant and, where appropriate, the ownership, type, and size.
4. The utility undertakes to supply only such water at such pressure as may be available at any time through the normal operation of its system.