

New York (state)  
" "

**DEPARTMENT REPORTS**

OF THE

**STATE OF NEW YORK**

CONTAINING THE

**Decisions, Opinions and Rulings**

OF THE

**State Departments, Officers, Boards  
and Commissions**

---

**OFFICIAL EDITION**

**THOMAS J. CURRAN**

*Secretary of State*

---

**VOLUME 71**

**1951**

---

*Second.* That the plans proposed are justified by public necessity.

*Third.* That said plans provide for the proper and safe construction of all work connected therewith.

*Fourth.* That said plans provide for the proper protection of the supply and the watershed from contamination and that filtration is at the present time unnecessary.

*Fifth.* That said plans are just and equitable to the other municipalities and civil divisions of the State affected thereby, and to the inhabitants thereof, particular consideration being given to their present and future necessities for sources of water supply.

*Sixth.* That said plans make fair and equitable provisions for the determination and payment of any and all legal damages to persons and property, both direct and indirect, which will result from the execution of said plans or the acquiring of said lands.

#### Decision

Wherefore, the Water Power and Control Commission does hereby approve the said application, maps and plans of Eva W. Golfman and Bertha M. Feldman, as thus modified.

In the Matter of Application of ROCHESTER AND LAKE ONTARIO WATER SERVICE CORPORATION, for Approval of Construction of Two Wells Having a Total Capacity of Not Less than 2,000,000 Gallons per Day or More than 3,000,000 Gallons per Day.  
FOURTH APPLICATION

Water Supply Application No. 2020

(May 3, 1950)

Application, maps and plans approved as modified.

#### Proceedings

BY THE COMMISSION.—A. T. Luce, vice-president of Rochester and Lake Ontario Water Service Corporation, acting on behalf and in the name of that corporation, on March 15, 1950, made application to the Water Power and Control Commission for approval of the plans of said corporation, for the acquisition or taking of an additional source of water supply and of the construction proposed in connection therewith. This application was filed in the office of the Commission March 17, 1950.

After due notice, published in the *Rochester Times-Union*, the *Webster Herald* and the *East Rochester Herald*, the hearing on this application was held before Henry M. Schiller, associate engineer of the Commission, in the office of the applicant, at 204 Triangle building in the city of Rochester, on April 13, 1950, at ten o'clock in the forenoon. At this hearing, the Commission considered the petition, maps and plans submitted, examined witnesses and heard arguments for and against the project. The petitioner was represented by A. T. Luce, its vice-president and chief engineer. Objections were filed by the town of Penfield, represented at the hearing by Clarence L. Burton, its attorney and by the vil-

lage of Webster represented at the hearing by Meloy Smith, consulting engineer for the village. The village of East Rochester appeared at the hearing through Arthur B. Chappell, its village engineer and superintendent of public works.

On April 13, 1950, the Commission caused an engineering inspection to be made of the sites of the proposed works and of the proposed sources of water supply.

#### Project

Rochester and Lake Ontario Water Service Corporation now asks approval of this Commission for the installation and development of two new wells with a combined capacity of 2,000,000 to 3,000,000 gallons per day, for use in its existing water supply system. At the hearing, the applicant made the further request that it be permitted to install and develop one well in addition to the two requested in the petition if it is found necessary to do so to secure full production of the capacity desired. These wells are to be located in the valley of Irondequoit creek, in the southwesterly part of the town of Penfield, about 4,000 feet northeast of the applicant's existing Linden road booster station. The wells are to be of the gravel packed type, with an outer casing 18 inches in diameter surrounding an inner casing 12 inches in diameter. It is expected that they will be between 70 and 90 feet in depth. Each well is to be surmounted by a masonry well house containing an electric motor-driven deep-well turbine pump and necessary control equipment, instrument and meters. Water is to be pumped from the wells through some 5,000 feet of 12-inch supply main to an existing 12-inch supply main of the company located adjacent to the New York Central railroad right-of-way. The point of connection to the existing supply main is in close proximity to the Linden road booster station. The estimated cost of this project is \$126,000.

#### Objections

Objections to the project were filed by the town of Penfield and by the village of Webster. The town of Penfield is not opposed to the applicant's presently proposed project, but it is opposed to any action which might preclude it from making similar well developments in the future for and on behalf of existing water districts and of such water districts as might later be created within its limits. The village of Webster, likewise, is not opposed to this project, but does not wish any action taken which might in the future prevent the further expansion of its existing well field located near the easterly side of Irondequoit bay.

After due study of the petition and its exhibits and the evidence and arguments given at the hearing the Commission finds as follows:

#### Findings of Fact

1. Rochester and Lake Ontario Water Service Corporation is the successor in interest to the Rochester and Lake Ontario Water Company which was formed about 1902 to serve water to a con-

siderable portion of Monroe county surrounding the city of Rochester and including certain parts of the county now within the boundaries of that city.

2. The source of water supply for the company has always been the same, that is Lake Ontario, and water from that lake is obtained by pumping through a plant located on the shore of the lake at a point about 1.5 miles west of the mouth of the Genesee river.

3. On July 15, 1931, the corporation applied to this Commission for general approval of its plant and for a delimitation of the area in which it might, without further application to the Commission, extend its supply and distribution mains. In the decision on this application, which was approved on October 28, 1931 (*Water Supply Application No. 649*; 41 State Dept. Rep. 263), there has been included a complete description of the plant and property of the corporation and generally, the present plant is substantially the same as described therein.

4. In order to meet increased average demands and certain peak loads on its system, the corporation, on May 1, 1942, filed an application with the Commission for an increase in its intake capacity to about 18,000,000 gallons per day. This application was approved by the Commission on May 26, 1942 (*Water Supply Application No. 1544*; 64 State Dept. Rep. 997; completed works approved February 1, 1944).

5. Although the intake capacity of the corporation is now about 18,000,000 gallons per day, its filter plant capacity is limited to a maximum of about 16,000,000 gallons per day.

6. Peak demands on the system approached 19,840,000 gallons per day in the past year and even the average daily demand during certain periods in recent years has exceeded the capacity of the existing plant of the company.

7. The corporation, heretofore, has been able to meet its peak demands by use of water from the city of Rochester through an exchange agreement with the city. However, it is reported that due to the extreme droughts of recent years and because of increased consumption in the city itself, the interchange of water between the city and the corporation will not be continued in the future. It is obvious that the corporation must secure an additional source of water supply to provide for its peak load deficiencies.

8. The carrying out of this project and the making of an application to the Commission for approval thereof, was authorized by the officers of the corporation on March 15, 1950.

9. The engineering work in connection with this project is to be carried out under the supervision and direction of A. T. Luce, the chief engineer.

10. Some six test wells have been installed, five on the proposed well site property which the corporation has an option to purchase from the so-called Rothfuss and one on an immediately adjoining farm. There is every indication that this location will furnish the

amount of water desired although no conclusive tests have yet been made. It is understood that the wells to be installed are to be guaranteed by the driller to furnish the desired quantity of water.

11. A preliminary analysis of a sample of water taken from one of the test wells indicates that the water will be of a satisfactory quality and no treatment of it is now proposed. The Commission must, however, require that before any water from any of the wells as finally installed is used into the corporation's distribution system, final analyses must be made and the results, thereof, submitted to the Commission for its approval.

12. The area on which the proposed new wells are to be located is nearly level farm land sloping gently toward Irondequoit creek and at a slightly higher level than the creek bed. It is reported that the wells are to be located on this flat area a short distance beyond highest known flood limits in that creek. The Commission must require that the floors of the pumping stations and the well casings be extended above any possible high flood level and that an embankment be placed around the pumping stations so that no flood waters and surface wash may be able to approach within 50 feet of the well casings.

13. There are no cesspools, septic tanks or other sources of obvious pollution situated at present in this well area and it does not appear likely that any housing developments will be constructed within the immediate vicinity of this area for some time in the future. The Commission must require that the corporation own and fence all land within 100 feet of any of the wells proposed to be installed and, in addition, that it protect all land within 200 feet of any such well so as to prevent the construction of any possible source of pollution within such distance.

14. The estimated cost of this project is \$126,000 and, such amount appears to be sufficient to permit it to be carried out.

15. No detailed plans and specifications have been submitted with the application. It must be required that before any construction work is carried out, final detailed plans be furnished to this Commission for its approval and the work, thereafter, be carried out in strict accordance with such approved plans.

16. The corporation now has an option to purchase the lands on which the wells are to be located.

17. It is the concern of the town of Penfield that by the development by the company of the wells now proposed, the town itself might be precluded from making similar developments in the future for use in its existing districts and in such new water districts as might be created by it. There are at present three water districts in the town, two of which are supplied with water from the water supply system of the corporation and the third by the village of Webster.

18. The village of Webster, which now secures a well supply from a well field near the easterly side of Irondequoit bay, about six miles northerly of the proposed wells of the corporation, objected on the grounds that the proposed development might affect

the future expansion of its own well field. It is not apparent, nor was any data submitted, to show that the taking now proposed will have any serious effects on the possible future expansion of the well field of the village.

19. The engineers for the water company have determined that the project now proposed will be the most economical and expedient method of securing additional water needed to insure a more adequate supply for and to provide greater flexibility in the operation of its water supply system.

20. The carrying out of these plans will have no adverse effect on the water supply interests of any other municipality or civil division of the State.

21. The legal damages which may be caused by the execution of the plans of the petitioner are not such as to require any special consideration or legislative enactment in order that they equitably may be determined and paid.

#### Conditions

The Commission finds it to be necessary to protect the water supply and the interests of the applicant and of the inhabitants of the territory supplied by it with water, to protect the water supply and interests of any other municipal corporation or other civil division of the State and the inhabitants thereof, and to make safe all dams, reservoirs or other structures to be constructed by said plans, that the application, maps and plans submitted should be modified to conform to the following:

A. Under this decision and approval, Rochester and Lake Ontario Water Service Corporation is hereby authorized to install and develop on the so-called Rothfuss and immediately adjacent farm not to exceed a total of three wells with a maximum combined capacity of 3,000,000 gallons of water daily.

B. Sufficient land must be acquired by the corporation so that it shall own all land within 100 feet of any such well. Such land must be used for water supply purposes only and be surrounded by a fence provided with gates which normally shall be kept locked. The entrance of animals and unauthorized persons within this enclosure must be prevented in so far as possible.

C. In addition, all land within 200 feet of any such new well shall be protected and controlled in such a manner that there shall be no danger of pollution of the ground or ground water within that distance. This may best be done by ownership of the land.

D. The floor in the pumping station and the top of the well casing at each of the new wells must be constructed at an elevation above highest known flood level and the area surrounding each well must be protected from pollution by surface and flood waters originating outside thereof, by the construction of suitable diversion ditches or embankments so that no such waters may approach within 50 feet of the wells themselves. In addition, the development of the new wells must be so carried out that there shall be no opportunity for pollution entering the water in them. All test

wells installed in the area and not used for observation purposes must be suitably sealed or capped. Any such observation wells must be constructed and protected in the same manner as the wells to be used for water supply use.

E. Before any water from these proposed wells may be used for any purpose, after a prolonged pumping test, applicant shall have caused a sample of the water therefrom, to be collected and analyzed, shall have submitted the results of such analyses to this Commission and, shall have been advised by this Commission either, that the water is of satisfactory sanitary quality or, that certain specified treatment or purification thereof, is necessary. In this last case, such water shall be used only after full compliance with the full requirements of the Commission.

F. The Commission reserves the right to require the taking of further sanitary precautions or the treatment or purification of the water from these wells should future analyses or inspections show a need for so doing.

G. Prior to starting work on any construction authorized by this decision and approval, detailed plans of the structures proposed to be built and specifications for such work must have been submitted to and approved by this Commission. Thereafter, such construction work must be entirely completed in full accordance with the plans and specifications which have been so submitted and approved.

H. Unless the works authorized by this decision shall have been fully completed by May 1, 1953, or within such extended time as may have been applied for and granted by the Commission, then, and on that date, this decision shall be deemed to have lapsed and to be of no further force and effect.

I. Nothing in this decision and approval contained shall be held to abrogate the provisions of section 524 of the Conservation Law, which forbid the operation of any of these works until, as constructed, they have been approved by the Commission. Such final approval will be given only on due petition therefor. In general, such approval will not be given except for a fully completed system, and it never will be given until all provisions affecting quality of the water and safety of the works fully have been complied with.

#### Statutory Determinations

The Water Power and Control Commission, having given due consideration to the said petition and its exhibits, and the proofs and arguments submitted at the hearing determines and decides as follows:

*First.* That the application, maps and plans submitted are modified as set forth above and, as so modified, are the plans hereinafter mentioned.

*Second.* That the plans proposed are justified by public necessity.

*Third.* That said plans provide for the proper and safe construction of all work connected therewith.

*Fourth.* That said plans provide for the proper protection of

the supply and the watershed from contamination and that filtration is at the present time unnecessary.

*Fifth.* That said plans are just and equitable to the other municipalities and civil divisions of the State affected thereby, and to the inhabitants thereof, particular consideration being given to their present and future necessities for sources of water supply.

*Sixth.* That said plans make fair and equitable provisions for the determination and payment of any and all legal damages to persons and property, both direct and indirect, which will result from the execution of said plans or the acquiring of said lands.

#### Decision

Wherefore, the Water Power and Control Commission does hereby approve the said application, maps and plans of Rochester and Lake Ontario Water Service Corporation, as thus modified.

In the Matter of Application of the VILLAGE OF ADDISON, STEUBEN COUNTY, for Approval of Its Acquisition of an Additional Source of Water Supply and of Plans for Connecting It to Existing Water Supply System. SECOND APPLICATION

Water Supply Application No. 2021

(May 3, 1950)

**Application, maps and plans approved as modified.**

#### Proceedings

BY THE COMMISSION.—Angelo Sisto, Mayor of the village of Addison, in the town of Addison, Steuben county, acting in the name and on behalf of that village, on March 27, 1950, made application to the Water Power and Control Commission, for approval of the plans of said village for the acquisition or taking of an additional water supply and of the plans proposed in connection therewith. This application was filed in the office of the Commission on March 28, 1950.

After due notice, published in *The Addison Advertiser*, the hearing on this application was held before George J. McNatt, senior engineer of the Commission, in the village hall in the village of Addison, on April 26, 1950, at ten o'clock in the forenoon. At this hearing, the Commission considered the petition, maps and plans submitted, examined witnesses and heard arguments in favor of the project. The petitioner was represented by Charles M. Salerno, village attorney. No objections were filed and no one appeared in opposition.

On April 26, 1950, the Commission caused an engineering inspection to be made of the site of the proposed works.

#### Project

The village of Addison asks that this Commission approve of its installation and development, as a new and additional source of water supply, of a new well already put down on waterworks