

Decision No. 12005.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

SALVATORE RIELLA, MARY J. MASSA,
MICHAEL RATTO, MRS. J. A. HAVERSTICK,
ADOLPH F. SPINETTI, ANGELO BERNERO,
A. A. MASSA, G. B. BUSCAGLIA, A. FORSHEY,
DEVI BADARACCO, A. D. MASSA, MRS. MARY
GUSTO, MRS. TOM MELLO, V. MONDANI, J. S.
GUSTO, MRS. STEVE BIGNOTTI, JOHN STROHM,

Complainants,

vs.

CHICHIZOLA ESTATE COMPANY, a corporation,
Defendant.

Case No. 1881.

T. G. Negrich, for complainants.

Wm. G. Snyder, for Chichizola Estate Company.

MARTIN, Commissioner:

O P I N I O N

This proceeding was initiated by a complaint on the part of Salvatore Riella and 16 other persons against the Chichizola Estate Company, a corporation, alleging that the defendant is the owner of a water system at Jackson Gate, Jackson, Amador County; that complainants or their predecessors have for approximately 35 years been supplied with water from the said system; that defendant on or about March 1, 1923, served a written notice that said water service would be discontinued; that complainants have no other supply of water except that certain of them own wells which they allege to be inadequate for a proper water supply; that

defendant, Chichizola Estate Company, is a public utility; and that they would suffer loss and damage if this water service were discontinued. They ask that the Commission investigate the matter, and, if defendant be found to be a public utility, that the Commission issue such order as may be proper in the premises.

Defendant filed its answer alleging that it is not a public service corporation and not subject to the jurisdiction of the Railroad Commission; that it owns certain real estate and certain store premises at said Jackson Gate, for the service of which premises this system was primarily installed; that water was merely furnished to complainants or their predecessors as an accommodation; that water has not been furnished to all applicants desiring service; that defendant has ceased to conduct a merchandise business at Jackson Gate; that the water system requires special attention and cannot be operated economically as a separate unit; that defendant had offered to sell the system to complainants for the sum of \$1,750 and that it is now willing to sell the same for \$2,000, which it alleges to be "much below the actual value of said water system", the total value of which it declares to be "in excess of \$3,500". Defendant further alleges that water can be supplied by the Jackson Water Works, a public utility serving the City of Jackson.

A public hearing upon this matter was held at Jackson on April 23, 1923. The complainants there adduced a showing that the water system in question was installed more than thirty years ago by one Victor Chichizola; that the same is now owned by defendant; that approximately four acres, owned by defendant, are supplied with water from this system and that the system also has connections for 23 other consumers; though only 18 are now actually supplied with water. A portion of defendant's pipes is laid in the public highway and 15 of the services to outside consumers are metered.

T. A. Chichizola, president of the defendant company, testified that the rates charged at the non-metered services are \$2.00 per month, save in one instance where \$1.25 is charged, and that at the metered services the rates are \$2.00 per month minimum for 4,000 cubic feet and 5¢ for each additional 100 cubic feet.

It appears the defendant pays 25¢ an inch for this water, which is taken from a ditch of the Pacific Gas and Electric Company and is conveyed through 3,505 feet of pipe to a small regulating reservoir maintained by the defendant. From this regulating reservoir it is distributed to consumers through 3500 feet of mains of varying sizes.

While it was stated that at one time service was refused to certain persons who desired the same, nevertheless it was testified by the company's president that these persons had later been served and that no one who requested service and whose property was located within the area conveniently reached by the system had finally been refused service. The Chichizola Estate Company owns two residences, a barn, a large store building, a blacksmith shop, an employe's house, and, as stated above, consumes water upon approximately four acres of gardens and lawns. It was frankly admitted by the president that if this present service were abandoned the defendant company would have to install some other water system to serve its properties and it was declared that the company proposes in case of such abandonment to install at an approximate cost of \$5,000 a new system connecting with the Pacific Gas and Electric Company's ditch. He stated that it would not be satisfactory to defendant to utilize wells, because the ditch water is preferable to the well water and because adequate fire protection could not be secured if wells were used. Both T. A. Chichizola and Julius Chichizola, secretary of defendant

corporation, stated that the real desire on the part of the company was to be free from the duty of serving water to other consumers.

William Stava, one of the Railroad Commission's hydraulic engineers, testified that he had made an examination of the system. He presented a report on the operating conditions, together with the expenses, revenues and estimated cost of the system. Mr. Stava testified that this system could not be economically operated as an independent unit; that it needs little attention and would not require the whole time of one man and that it could be operated in connection with some other business; also that it is more economical to continue to take water from the present source than to install a connection to the Jackson Water Works. In his report he estimated the original investment to be \$3,210, making no allowance for land, since in all cases save one, right of way was granted without compensation. The present value of the system, based on its present condition, was found to be \$1,508. Annual operating expenses were estimated to be \$341, with replacement annuity of \$53; these last two items, together with a return upon \$3,210 at 8%, would amount to \$650, which sum is in excess of the estimated annual revenue from the property during the past three years, including a reasonable allowance for use of water by defendants.

Two main questions present themselves to the Commission in this case: First, is this water system a public utility? and second, if so, should it be granted permission to abandon the service which it has been rendering for many years? We are of the opinion with reference to the first question that the defendant, Chichizola Estate Company, does render public utility water service to these consumers. As stated previously, according to the testimony no person conveniently situated with

reference to the system has been ultimately refused service, and service has been rendered to many people for several years and always for compensation, and probably until a very recent period at rates that were remunerative. Also, defendant's articles of incorporation give it the power of carrying on public utility business.

With reference to the second point, we are of the opinion that the defendant should not be allowed to abandon this service. Several of the complainants testified that, while they have wells, these are inadequate save for rather meager domestic use. There was no evidence that any well has been sunk in recent years. No other practicable source of supply was shown, and there can be no doubt but that a discontinuance of water service upon the Chichizola system would result in considerable hardship to these consumers.

The Commission does not oppose any reasonable effort on the part of defendant company to discover a person or group of persons who will purchase this system and relieve the defendant of its obligations. Until such purchaser is found, however, it seems clear that the Commission cannot justly allow this service to be discontinued.

The testimony shows that some adjustment should be made in the rates to increase the annual revenues to more nearly equal the estimated annual charges. The Commission, in the accompanying order, will establish a schedule of rates to apply to all consumers, including defendant, which is designed to accomplish this result.

The testimony also shows that defendant is a large user of water and that its services are not metered. It is recommended that all the large users, including defendant, be metered, that waste of water may be prevented, and that the charges be distributed equitably in accordance with actual use of water.

The following Order is recommended:

O R D E R

Complaint having been made to the Railroad Commission that the Chichizola Estate Company, a corporation, owning and operating a system for the supply of water for domestic purposes at Jackson Gate, Jackson, Amsdor County, is about to discontinue such service, the matter having been heard and the Commission being fully advised in the premises,

It Is Hereby Found as a Fact that the Chichizola Estate Company, a corporation, is, as to the water service rendered by it at said Jackson Gate, a public utility, subject to the control and regulation by this Commission under the laws of this state.

It Is Hereby Further Found as a Fact that the rates now charged by the Chichizola Estate Company, in so far as they differ from the rates herein established, are unjust and unreasonable rates for water delivered by defendant to consumers in Jackson Gate, Jackson, and vicinity.

And basing its order upon the foregoing findings of fact and upon the further statement of facts contained in the preceding opinion,

IT IS HEREBY ORDERED that the said Chichizola Estate Company, a corporation, continue its present service of water to complainants herein and any other consumers which it may have held itself out to serve.

IT IS HEREBY FURTHER ORDERED that Chichizola Estate Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water supplied to its consumers subsequent to May 31st, 1923:

Monthly Meter Rates

0 to 2000 cubic feet, per 100 cubic feet . . . \$0.10
Over 2000 " " " 100 " " . . . 0.05

Monthly Minimum Meter Rate

For 5/8 inch by 3/4 inch meter \$2.00

Monthly Flat Rates

The monthly flat rates as at present on file
with this Commission shall remain unchanged.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days from the date of this order Chichizola Estate Company shall file with this Commission rules and regulations governing relations with its consumers, to become effective upon their acceptance for filing by this Commission.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Company of the State of California.

Dated at San Francisco, California, this 2d day of May, 1923.

C. S. Sweeney
H. B. ...
Dwight Martin
J. Whittier
Commissioners.