

Decision No. 14 838.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Investigation, on)
the Commission's own motion, of the)
reasonableness of the rates, service,)
rules, regulations and practices of)
SIDNEY SMITH,)
operating a public utility water sys-)
tem under the fictitious name of HOME)
GARDENS WATER COMPANY.)

Case No. 2078.

Davis and Dadman, by L. E. Dadman,
for Home Gardens Water Company.

BY THE COMMISSION:

O P I N I O N

This is an investigation on the Commission's own motion into the reasonableness of the rates, service, rules, regulations and practices of Sidney Smith, operating under the fictitious name of Home Gardens Water Company and engaged in the business of supplying water for domestic purposes to residents of Home Garden Acres in Los Angeles County.

This water system was installed, through an agreement between Sidney Smith and the J. D. Millar Realty Company, to aid in the sale of lots in the Home Gardens Tract. On the twenty-eighth day of January, 1924, the Commission in Decision No. 13088 granted Smith a certificate of public convenience and necessity to operate the system.

A public hearing in this matter was held before Examiner Satterwhite in Los Angeles after due notice thereof had been given.

so that all interested parties might appear and be heard.

The recent practices of this company have caused a great number of informal complaints to be filed with the Commission by the consumers. Attempt was made by the Commission to obtain reasonable service to consumers by informal negotiation but the relief sought apparently could not be obtained informally, therefore, this case was instituted by the Commission upon its own motion to investigate the affairs of this water company.

At the time this proceeding was called for hearing before the Examiner the defendant appeared and interposed the objection that the Commission had no jurisdiction to hear the matter on the ground that no complaint had been filed or served upon him. He admitted that the Commission's order instituting the investigation had been duly served upon him, but contended that, under Section 60 of the Public Utilities Act, even a proceeding instituted on the Commission's initiative must be predicated upon or accompanied by a written complaint specifying the acts or things done or omitted to be done by the utility in order that it might be informed in advance of the accusations or charges against it and thereby be enabled to prepare to meet them. We see no merit in this objection. A proceeding on the Commission's own motion accuses the utility of nothing; it charges neither sins of commission nor sins of omission; it is simply the instrumentality through which the Commission seeks to ascertain whether the rates of the utility are unjust, unreasonable, discriminatory or preferential, or whether its rules, regulations, practices and services are unjust, unreasonable, improper, inadequate or inefficient. The utility which is the subject of a Commission's-own-motion-investigation is accorded the privilege and opportunity

of interposing objections, of introducing evidence, of cross-examining witnesses and of advancing oral and written arguments to the same extent as in any other proceeding before the Commission; it is denied none of the rights which inhere in it in a formal complaint proceeding. Reference need only be made to many sections of the Public Utilities Act (Sections 31 to 46, inclusive, and Sections 53 and 60) which authorize the practice, to show that proceedings instituted and conducted on the Commission's own initiative were fully contemplated by the framers of the Act and have been repeatedly enumerated by the Legislature among the express powers and duties of the Commission. The objection, therefore, must be overruled.

It appears from the evidence, among other things, that the defendant changed the location of the service connection supplying one Tracy, a consumer, from one street to another without his consent and thereby caused great inconvenience and considerable expense for the changing of the plumbing within the premises. The defendant refused either to restore the original service or to reimburse said Tracy for the extra expense incurred by him in relocating the pipe lines to connect with his house. All attempts made by the Commission's representative to adjust this matter informally were met with flat refusal by defendant. However, during the hearing in this matter defendant did finally agree to reimburse the above consumer and deposited with the Commission sufficient funds to cover the necessary adjustment.

No company office is located in or near the community served and there is no resident employee who in the absence of defendant or his attorney has authority to deal with consumers, receive and adjust complaints, accept payments for water bills, or take responsible action in cases of emergency. This condition has caused great annoyance and no little inconvenience to consumers

especially in connection with the payment of bills. Steps should be taken immediately to remedy this situation.

Certain consumers complained that attempts had been made by defendant to charge for water service rates other than those authorized and accepted for filing by the Commission. This was admitted by defendant to be the fact in one case, but it was contended that although he was unable to collect in that instance, nevertheless he was within his rights in establishing a rate for a class of service not provided in the schedule of rates authorized by the Commission, and he further contends that under such circumstances a rate may be legally put into effect without authority from the Commission. This contention is unsound. Defendant's schedule of rates contains a meter rate applicable to any class of service. Furthermore, the provisions of the Public Utilities Act are clear as to the procedure relative to the establishment of rates, and there is no provision whereby a new rate can lawfully be put into effect by a public utility without authorization or acceptance for filing by the Railroad Commission.

In general it should be said that the evidence throughout this proceeding indicates that the defendant has conducted the operations of his water business with a general disregard for the convenience of consumers and their rights to reasonable consideration and fair treatment. We cannot urge too strongly the absolute necessity of fostering a spirit of fairness and understanding between a utility and its consumers, for it has been the experience of this Commission that a spirit of cooperation will result in greater benefits to the utility and the consumers than a spirit of animosity. We therefore suggest to defendant that he lend his best endeavors and efforts toward the cultivation of a more amicable feeling than now exists.

O R D E R

The Railroad Commission of the State of California having instituted an investigation on its own motion into the reasonableness of the rates, service, rules, regulations and practices of Sidney Smith, operating a public utility water system under the fictitious name of Home Gardens Water Company, a public hearing having been held thereon, and the Commission being fully advised in the matter,

IT IS HEREBY ORDERED, for the reasons set out in the opinion which precedes this order, that Sidney Smith, doing business under the fictitious name of Home Gardens Water Company, be and he is hereby directed to establish in or near the community served, such facilities as will enable consumers to pay bills for service rendered without unreasonable inconvenience and to make complaints or transact other necessary and proper business with some one in responsible charge of such affairs, either a resident employee or otherwise, whose duty it shall be and who shall have the authority to deal with the general and ordinary matters affecting consumers, and who shall also have power to act in emergencies and from time to time remedy such general matters as necessity may require.

IT IS HEREBY FURTHER ORDERED that Sidney Smith be and he is hereby directed to file with the Railroad Commission, for its approval, within thirty (30) days from the date of this order, plans for the proper compliance with the terms of this order as set out above.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 25th day
of April, 1925.

Q. Leamy

Exeter Shore

George W. Squires

Ernesto

COMMISSIONERS.