

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation, on )  
the Commission's own motion, of the )  
reasonableness of the rates, charges, )  
practices, contracts, rules, regula- )  
tions, schedules and conditions of )  
service, or any of them, of )  
W. W. WARD, )  
operating a public utility water sys- )  
tem under the fictitious name and )  
style of EL PISMO WATER COMPANY. )

Case No. 2152.

J. E. Morris, for the consumers.

M. R. Van Wormer, for W. W. Ward and the  
El Pismo Water Company.

BY THE COMMISSION:

O P I N I O N

This is a proceeding instituted by the Railroad Commission upon its own motion for the purpose of investigating generally the rules and regulations, practices, conduct of business and methods of operation of the El Pismo Water Company, a public utility water system owned and operated by W. W. Ward and supplying water for domestic and commercial purposes to the residents of Pismo, in San Luis Obispo County.

The water system now serving the town of Pismo was originally installed at some time prior to 1905 by one E. W. Carpenter. The system together with other properties in the general vicinity of Pismo Beach was subsequently acquired by J. P. Andrews, now deceased. Upon the probating of the estate of Andrews the title to his holdings vested in Mary E. Hideout, Martha

M. Murphy, Hazel Murry, Nathaniel Brew and James M. Duffy. This property consisted principally of a hotel, dance hall, and a tent and cottage city operated in conjunction therewith located upon Pismo Beach. In order to separate the water plant from their private business enterprises, the above Mary E. Rideout et al. formed a co-partnership under the name of the El Pismo Water Company and conducted the water operations as a separate business. All of these properties including the resorts, together with the water system, was sold by Mary E. Rideout et al. to W. W. Ward, defendant herein, who is the present owner. The transfer of the public utility properties involved in this sale, the El Pismo Water Company, was authorized by the Railroad Commission in Decision No. 12363, rendered July 17, 1923.

This water system was installed primarily for the purpose of serving the above resort properties. However the pipe lines were extended from time to time to premises in the general vicinity of the resorts, until at the present time this system supplies the entire town of Pismo. This type of piece-meal extension and construction has of necessity resulted in the development of a rather aimless distribution system and has also resulted in a water system which is inadequate to render proper service to the entire community which it now undertakes to serve. The water supply for this system is obtained by pumping from wells. The water is so impregnated with various mineral salts as to be extremely unpalatable and unsatisfactory for domestic purposes.

For the past year or more the Commission has received numerous complaints against this utility from the consumers. These complaints involve refusals to extend mains, refusals to install service connections, arbitrary and non-uniform charges for the installation of service connections and meters, incorrect water

bills, refusal to correct obvious errors in water bills, and discourteous treatment accorded consumers when making complaint to the owner or officials of the company. Arbitrarily and without authority from the Commission the flat rates for water service were increased by Ward, applicable to all service rendered subsequent to June first, 1925. All of these matters have been taken up informally by correspondence and in certain instances by personal investigation conducted by representatives of the Commission. While some of the complaints were properly adjusted, other complaints involving similar matters continued to arise until it became apparent to the Commission that the attitude of Mr. Ward was such that nothing could be gained by informal negotiations and that in order to protect the public interests and the rights of the consumers the conditions demanded that the Commission take immediate formal action against the owner of this utility, to the end that the causes of complaint be remedied. Accordingly the Commission upon its own motion instituted the present investigation, and a public hearing thereon was held before Examiner Austin at Pismo.

The evidence shows that commencing with the month of June, 1925, defendant Ward upon his own initiative and without authority from this Commission increased the flat rates for water service to a large number of his consumers, and that although directed by the Commission to refund this excess collected over and above his legal rates and thereafter adhere to his official rate schedule, he has not done so.

Defendant Ward contends that the rules and regulations of his water company which were accepted for filing on January 24, 1924, by the Commission were signed and filed with the Commission by one John Weil, superintendent of the El Pismo Water Company, without the authority, knowledge or consent of the owner

and defendant, Ward, and are therefore in no manner binding upon him either as to the rates or any of the various rules and regulations contained in the schedule. This contention is clearly unsound and can not be accepted by the Commission. The effective rate schedule, rules and regulations of this company are those which are officially on file with this Commission and which were filed and accepted on the twenty-fourth day of January, 1924.

In view of the evidence to the effect that defendant Ward arbitrarily and upon his own initiative, without the proper authority of this Commission, increased the rates charged for water service to certain of his consumers for service rendered subsequent to the month of May, 1925, it is apparent that all money collected in excess of the established rates was illegally collected and therefore should be returned to the consumers. The following order will provide for the return of this money improperly collected by giving credit upon the monthly water bills. The utility therefore will be directed to refund to all consumers any excess charges made for water service over and above the established rates officially on file with this Commission before such increase was put into effect and as set out in the rate schedule below, upon the basis of a credit to the extent of the total monthly water bills of the consumers affected, until the entire amount illegally collected shall have been returned.

Set out below are the legal rates now effective upon the system of the El Pismo Water Company:

Official Rates of

EL PISMO WATER COMPANY  
W. W. WARD, Owner

El Pismo, San Luis Obispo County, Calif.

<u>E L A E</u>	<u>Per Month</u>
Stores and Offices . . . . .	\$1.25
Houses, Apartments and Rooming Houses, 3 rooms or less. . . . .	1.25
For each additional room . . . . .	.15

	<u>Per Month</u>
Hotel, Dining Room and Kitchen . . . . .	\$5.00
Bedrooms in hotel or detached, per room. . . . .	.30
Restaurants per seating capacity . . . . .	.075
Minimum. . . . .	1.50
Barber shops . . . . .	1.50
Horses or Cows, each . . . . .	.10
Saloons or bars. . . . .	5.00
Soda Fountains and Ice Cream Parlors . . . . .	1.50
Public Garages . . . . .	3.00
Houses and Tents with faucet only on outside . . . . .	.75
Lawns, Flowers and Gardens, per 100 sq. ft. during irrigation . . . . .	.04

#### M E T E R

Minimum for 250 cubic feet or less . . . . .	\$1.00
All use over 250 cubic feet. . . . .	.25 per 100 cu.ft.

Another complaint which has been made by the majority of metered water users is to the effect that the amounts charged on the monthly statements are not correctly figured according to the rate schedule and the meter readings. In the case of one Mrs. W. D. Burton, who filed with the Commission as exhibits eight consecutive monthly meter bills commencing with December, 1924, the evidence shows that not one of the bills was computed correctly. Although the variations ranged from 1 cent to 23 cents, nevertheless the bills were incorrect, with no plausible explanation for such errors other than carelessness. No reason occurs to the Commission why it should not be possible to exercise sufficient care in the computing of monthly bills to insure their correctness. The defendant will be expected to take whatever steps may be necessary to remedy this cause of complaint so that no difficulties will arise in the future from such sources.

Defendant Ward has generally caused unnecessary delay in

installing service connections and extending mains for new consumers. Although the rules and regulations of this company do not authorize a charge to be made for service or meter installation and provide for the extension of 150 feet of main at the company's expense for each permanent consumer, nevertheless Ward has disregarded these rules and has charged the consumers for such installations in most cases, granting to some refunds by way of credit on the water bills, but in many instances this refund has been refused. No uniform policy has been adhered to. The general practice of the Commission has always been to require all water, gas, electric or telephone utilities to install at their own expense a service connection to the property line or curb line of property abutting upon a public street or highway. In the case of water utilities the term "service connection" as used herein is interpreted to include the meter and meter boxes. Defendant Ward will be required to comply strictly with his rules and regulations, which at present provide that in all cases of applications for permanent use the service pipe and meters be installed at the expense of the utility and not at the expense of the applicant for service. Accordingly in all such cases where in violation of his rules and regulations defendant Ward has required the consumer to make a deposit for a service connection, or a meter, or both, and in cases where the consumer has been forced to purchase and install at his own expense the service pipe or meter, or both, which according to the defendant's rules he was under the duty to provide at his own expense, the said defendant Ward shall cause proper refund to be made to such consumer.

There is no reason why a utility serving a community the size of Pismo should not have the organization and facilities to handle such matters as applications for new service installations

promptly and without delay. If the present force and equipment is insufficient, additional help and facilities should be obtained at once.

The testimony shows that A. E. Arrington applied to defendant for water service to his residence, located on one of the principal streets of Pismo, along which the company has a water main. Instead of installing the service connection directly from the main in the street in front of the premises, as is the universal practice, the defendant ran a pipe from the three-quarter inch connection supplying a neighbor living on the same side of the street as Arrington, to a point in front of the latter's property. Arrington was charged for the cost of this service connection but believing that the defendant was under the duty to make this installation at his own expense Arrington refused to pay the bill and deposited the amount with the Commission for adjustment. In spite of the fact that defendant Ward was notified by the Commission in writing of this deposit and informed that according to his rules and regulations and the practices of the Commission such deposit precluded the right of defendant company to shut off the water for non-payment of a bill pending settlement of the controversy, nevertheless the said Ward not only ignored and violated his own rules and regulations and the written instructions of the Commission by shutting off the water, but in addition thereto he dug up and removed that part of the service pipe extending in front of Arrington's premises to his side lot line. During the proceedings, however, Mr. Van Wormer, attorney for defendant Ward, agreed to have this pipe reconnected and provide for the resumption of water service to the Arrington property. Since the submission of this case the Commission has received notice from Arrington to the effect that water service has been resumed to his premises.

The evidence shows that the defendant refused the application of one Adolph Umbehend for the extension of water service to his property, consisting of ten cottages located upon Lots 1 and 2, Block 3 of the Town of Pismo and situated within the service area of this system. This matter was taken up informally with the Commission by Umbehend, as a result of which it was agreed that the defendant should extend his water main a distance of one hundred and fifty feet at his own expense in accordance with his rules and regulations, and the excess cost of the installation of the additional 70 feet of 2-inch main should be borne by the applicant for service. This excess cost amounted to \$40, which was deposited by Umbehend with the company. However, instead of installing the 2-inch main as agreed, the defendant installed 3/4 inch pipe, the size of which is entirely inadequate for the service required. A main of not less than two inches in diameter should be installed at once to serve the above property of Umbehend. The money deposited by Umbehend shall be returned to him in accordance with the company's rules and regulations and the practices of this Commission. This installation will be provided for in the following order.

Although the quantity of water available at the wells of this utility appears to be sufficient to supply the needs of the present consumers, yet there was practically unanimous complaint against the quality of the water from the standpoint of potability. The present wells yield a water so strongly impregnated with mineral salts as to make the water not only extremely unpalatable but almost undrinkable. According to the testimony the water used for drinking and cooking purposes must be purchased from outside sources. The Commission recognizes the fact that throughout this particular area the underground water is highly



mineralized and in many cases disagreeable to the taste. Evidence was presented however to the effect that water is obtainable within a reasonable distance of Pismo which although not of the very highest quality from the standpoint of potability is nevertheless a vast improvement over the water furnished by this utility. The evidence presented concerning the availability of other sources of water supply for this community which would be entirely satisfactory was rather indefinite and not conclusive. However it is clear that better water exists in the general vicinity than is now being obtained from this company's wells. Since the submission of this case defendant herein has filed an application for an increase in rates on this system, and at a later date an application to discontinue entirely the public utility service of water in the town of Pismo. In view of these circumstances defendant will not be ordered to procure an additional source of water supply pending the hearing of these matters.

#### O R D E R

The Commission having made an investigation upon its own motion into the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of W. W. Ward, operating a public utility water system under the fictitious name and style of the El Pismo Water Company, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter,

It Is Hereby Found as a Fact that the legal schedule of rates effective on the system of the El Pismo Water Company, owned and operated by W. W. Ward, is that schedule of rates now officially on file with the Railroad Commission of the State of California, a

true copy of which is set out in detail in the opinion which precedes this order; that W. W. Ward has charged certain of his consumers rates in excess of said rates; that the lawful rules and regulations of the El Pismo Water Company are those rules and regulations of said company which are on file with the Railroad Commission and which were accepted for filing upon the twenty-fourth day of January, 1924; that W. W. Ward has in a great many instances violated and refused to abide by the said rules and regulations in the conduct of his public utility business with his consumers and the public; that W. W. Ward has ignored and refused to obey the instructions and requests of this Commission, has conducted his public utility water business in an inefficient manner, and has generally adopted operating methods prejudicial to the rights, welfare and privileges of his consumers and the public generally.

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

IT IS HEREBY ORDERED THAT:

1. W. W. Ward be and he is hereby directed to refund to each and every consumer all amounts, if any, collected from any such consumer in excess of the lawful amount due and owing for water service rendered as computed under the effective schedule of rates now on file with this Commission, a true copy of which rate schedule is set out in the opinion which precedes this order, said refunds to be made in accordance with the terms of this order as hereinafter set forth.
2. W. W. Ward be and he is hereby directed to refund to each and every consumer all amounts, if any, deposited

by any such consumer with the said W. W. Ward or the El Pismo Water Company, for the purpose of covering the costs of installation of service connections, or meter, or both; provided that no refunds shall be made in the case of installations for temporary purposes only; said refunds to be made in accordance with the terms of this order as hereinafter set forth.

3. All refunds directed to be made to consumers herein shall be made commencing with the water bills rendered for the month of November, 1925, and upon the basis of the total amount of the monthly water bills of such consumers entitled thereto, continuing thereafter until the full amount of the refunds shall have been made; provided, however, that no refund shall exceed the total amount of the refund to which any particular consumer is entitled; and provided further that in cases where consumers who are entitled to refunds under any of the foregoing orders are no longer consumers of the El Pismo Water Company, the full amount of such refunds shall be paid to such consumers in cash within thirty (30) days from and after the date hereof.
4. Within thirty (30) days from the date of this order W. W. Ward shall file with this Commission a complete list setting forth the names and addresses of all consumers entitled to refunds under the terms of this order, and the amounts of such refunds due, segregated as to the classes of refunds directed herein. Thereafter W. W. Ward shall submit to this Commission a

monthly statement showing the amounts refunded to each of the consumers entitled thereto, until such time as all refunds have been completed.

5. W. W. Ward is hereby ordered to install or cause to be installed within sixty (60) days from the date of this order, a water main not less than two inches in diameter to serve the property owned by Adolph Umbehend, said property being Lots 1 and 2, Block 3, Town of Pismo.

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 30<sup>th</sup> day of November, 1925.

H. H. Brounidge  
C. Seaver  
George D. Squires  
Ernest D. Smith  
Leon O. McCall  
Commissioners.