

Decision No. 15852

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, charges,  
practices, contracts, rules, regula-  
tions, schedules and conditions of  
service or any of them of W. T. ESTEP,  
E. J. WHITNEY and HARRY L. PERSON, op-  
erating a public utility water system  
in Tract No. 4824, Los Angeles County,  
California.

Case No. 2165.

Carl W. Faucett, for E. J. Whitney.  
Glenn Behmyer, for W. T. Estep.  
H. L. Person, in propria persona.  
Walter Burk, for J. D. Millar.

BY THE COMMISSION:

O P I N I O N

This is a proceeding instituted by the Railroad Commission upon its own motion to investigate the service conditions, practices and methods of operation, etc., of the public utility water system serving Tract No. 4824, Los Angeles County, also known as Maravilla Park Tract, the certificate of public convenience and necessity to operate said system having been granted by the Commission to W. T. Estep, E. J. Whitney and Harry L. Person. On September 2d, 1925, E. J. Whitney filed with the Commission a notice in writing dated August 30, 1925, that it was his intention to abandon the entire Maravilla water system and discontinue water service. The Commission therefore instituted the above entitled case upon its own motion and a public hearing thereon was held before Examiner Williams after all interested parties had been duly notified.

According to the evidence Maravilla Park or Tract No. 4824 was originally subdivided by one J. D. Millar, who installed a water distributing system, drilled a well which was about 600 feet in depth, put in a pumping plant and a 10,000 gallon storage tank. Individual service connections were not installed to each house, but about 50 yard stand-pipes were installed throughout the system and no charge was made for water service until the spring of 1924, at which time the Los Angeles County Board of Health condemned the well supplying the tract as polluted and declared the water unfit for human consumption. Millar thereupon supplied the consumers by hauling water in tank wagons while a new well was drilled on the tract. Unfortunately this well failed to produce water and the service by tank wagon was continued.

In order to provide an adequate water supply and dependable service to Maravilla Park and three other subdivided tracts and to be relieved of the responsibility of furnishing water on them, Mr. Millar entered into a contract under date of July 22, 1924, with the said Estep, Person and Whitney, which provided for the taking over and operation of the water system on the Maravilla Park Tract, together with three other similar systems, two at Lankershim and one at Gardena. These water properties were to be improved, a water supply obtained wherever necessary, and the systems to be operated as public utilities under the jurisdiction of the Railroad Commission. In consideration for taking over these water systems Mr. Millar gave one lot in each tract for the locations of wells, pumping plants, tanks, etc., and \$14,000 in notes, all of which were delivered and acknowledged in the contract. Mr. Millar testified that he was led to believe that arrangements had been made with the Belvedere Water Corporation, a public utility, to take over the system on the Maravilla Tract, and consolidate it with its system.

Under the terms of the above agreement Estep, Person and

Whitney took over the operation of the Maravilla system, and on July 26, 1924, filed with this Commission an application, No. 10335, for a certificate of public convenience and necessity to serve the tract. This certificate was granted by Decision No. 14043, dated the eleventh (11th) day of September, 1924. In the mean time the service by tank wagon was continued by the new operators while methods of obtaining water were being investigated. About this time an epidemic broke out in this community, in which a large majority of the population is of Mexican origin, and in order to control the ravages of the disease the Board of Health refused to permit the further distribution of water by wagon. Through the efforts of the Commission arrangements were made to secure a temporary water supply for this emergency from the mains of said Belvedere Water Corporation, and water was first received from this source on the 27th of November, 1924.

On the 10th of January, 1925, the operation of the Maravilla system was turned over to the Consolidated Water and Development Company, a corporation operating several small public utility water systems in various parts of Los Angeles County, and whose majority stockholders at this time were Whitney and Person, who according to the testimony had acquired all the interests of Estep in the Maravilla system and in the said Consolidated Water and Development Company on the 2d day of September, 1924.

A contract was made by and between the Consolidated Water and Development Company and the Belvedere Water Corporation, in which the latter agreed to furnish the water at wholesale for the Maravilla tract for a period of three months only to permit other arrangements to be made for the development of a permanent water supply for the tract. This contract was extended from time to time until the said Consolidated Company notified the Belvedere Water Corporation that it would discontinue the operation of the Maravilla system on the

20th of August, 1925, but in fact actually continued operation until September the first. On the 2d day of September, 1925, E. J. Whitney filed a written notice with the Commission to the effect that the Maravilla system had no permanent water supply, was operating at a loss and that therefore it was his intention to abandon the entire system together with all the machinery, well, pipe lines and all other appurtenances thereto and to discontinue the service of water. As a matter of fact, service had already been discontinued by the owners on the last day of August, 1925.

As above mentioned, a certificate of public convenience and necessity was applied for on July 26, 1924, by Estep, Person and Whitney, but according to the evidence now before us, before this certificate was granted Estep had disposed of his interest in the Maravilla system to Person and Whitney, on September 2d, 1924. The certificate however was granted to Estep, Person and Whitney. According to the testimony of Person, his interests in both the Maravilla Park system and the Consolidated Water and Development Company were transferred or assigned to Carl W. Faucett. From these facts it would appear that Estep had no interest in the Maravilla system at the time the authority to operate as a public utility was granted by the Commission, but as the transfer of Person's interest in the utility system was made subsequent to the granting of the certificate and without authority from the Commission, it is clear that for the purposes of this proceeding both Person and Whitney are still responsible for the operation of this utility.

According to the evidence Millar expended a total of \$11,805 on the water system in the Maravilla Park tract. Of this amount \$3,288 was expended on the mains and services and \$3,336 was expended in drilling for a new water supply. Under the contract with Millar four lots and \$14,000 in notes were paid Estep, Person and Whitney to rehabilitate the Maravilla system and three others.

No money was ever expended by these three on two of the systems at Lenkershim, as the entire service areas of both were annexed to the City of Los Angeles, which furnished water to the residents through its municipal system.

As matters actually worked out, practically no money was spent on the three other water systems covered in the agreement with Millar, so that there was in fact practically the entire consideration of \$14,000 and the real property available to rehabilitate the Maravilla system. All money spent by Estep, Person and Whitney in obtaining a water supply for the Maravilla Tract in operating the system was really furnished by and paid by the Consolidated Water and Development Company. Details of these expenditures were filed by the Consolidated Water and Development Company subsequent to the hearing of this case by agreement of parties, and show a total of \$4,048, which included all operating costs. Without considering the revenues collected during the year, amounting to \$1,777, it is apparent from these facts that the operators of the system had in no wise lost money on the transaction but on the contrary had profited very handsomely during the period they had conducted the operation of the system.

The evidence shows that the cost of the distribution system including service pipes as installed by Millar was \$3,288. As the entire system was acquired by the present owners not only without cost but with a bonus, and as the well, pumping plant and tank are no longer used or required with a water supply as furnished by the Belvedere Water Corporation, the consumers can only be fairly charged with that part of the system which is used and useful.

Based upon the schedule of rates established in the certificate granted this utility, the revenues actually collected from the consumers on this system from January to and including August, 1925, amounted to \$1,777. The testimony shows that the

complete collections were not made for the last month's operation, so that the revenues receivable for the above eight months' period should be \$1,956.

Details of operating expenses from September 30, 1924, to August 31, 1925, were also filed after the hearing. These items totalled \$2,026.03, and included \$1,746.03 for purchase of water and \$280 for expense of collections from January, 1925, to August 31, 1925, as collections were not made previous to January 1, 1925. The expenses from January to and including August, 1925, during which collections were made amounted to approximately \$1,910.

No segregation of expense of repairs was possible, as these were made by employees of the Consolidated Water and Development Company whenever required, and not charged to the Maravilla Park system, but were estimated to be about \$10 per month. No showing was made as to the cost of supervision as this item is also included in Consolidated Water and Development Company expenses and cannot be segregated readily. The eight months' period of operation in 1925 included the summer months when the demand and use of water is greatest and the expense for purchasing water is at the maximum. Had the operations of the system been carried on for a complete year, the expense for water purchases would have decreased with the advent of the cooler weather, and the total revenues for the year would have exceeded the expenses, including such items as purchase of water, collections and repairs.

Since the submission of this matter the Belvedere Water Corporation has filed with this Commission a special rate for water delivered to the present Maravilla Park system in wholesale quantities of 15¢ per 100 cubic feet. The rate heretofore paid to this company for purchased water in the expense item set out above was 25¢ per 100 cubic feet. This represents a reduction of 40% in the major item of operating costs of the Maravilla system. Based

upon this reduced cost of purchased water and the cost of maintenance and operation set out above, the reasonable annual operating costs including depreciation annuity for the immediate future will very closely approximate \$3,500. Based upon the schedule of rates as established in Decision No. 14043 for this system, the annual revenues may reasonably be estimated to be \$3,150 for the immediate future.

Under existing operating conditions it is clear that the present rates will have to be readjusted somewhat in order to produce a reasonable net return upon the investment. Accordingly the order herein will provide for an increased schedule of rates which a careful consideration of the evidence indicates should yield a reasonable return upon the capital invested in used and useful property, over and above the costs of operation, maintenance and depreciation allowance.

It is clear from the facts set out herein that the owners of this utility have without authority from this Commission discontinued the public utility service of water to the consumers they had obligated themselves to serve. It is equally apparent that these same owners have in no sense of the word lost money by reason of their ownership or operation of the system. On the contrary the evidence plainly shows that these owners have profited to the extent of several thousand dollars. The facts also show conclusively that this system can at the present time be operated and yield a fair return upon the capital invested in the used and useful property over and above the reasonable maintenance and operating expenses including a proper allowance for depreciation. Obviously there can be no question raised in this case that the continued operation of this system will result in an out-of-pocket loss to owners and operators. The Commission is therefore of the opinion that E. J. Whitney and Harry L. Person should at once re-undertake the operation and responsibilities of rendering water service to the Maravilla Park Tract, which is now being temporarily served by the

Belvedere Water Corporation, as a matter of public accommodation, although the latter is under no legal or other duty so to do. Said Person and Whitney will be held responsible for this service until such time as they may be properly relieved by order of this Commission.

O R D E R

The Commission having made an investigation upon its own motion into the rates, charges, practices, rules and conditions of service of W. T. Estep, E. J. Whitney and Harry L. Person, operating a public utility water system in Tract 4824, Los Angeles County, public hearings having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter,

IT IS HEREBY ORDERED:

1. That for the reasons set out in the opinion which precedes this order, E. J. Whitney and Harry L. Person be and they are hereby directed to take control of the water system owned by them in Tract No. 4824, also known as Maravilla Park Tract, in Los Angeles County, and on or before the first day of February, 1926, resume water service to all persons entitled thereto.
2. That said E. J. Whitney and Harry L. Person be and they are hereby directed to notify this Commission in writing not later than the second day of February, 1926, of the date upon which they have resumed service to the consumers in Tract No. 4824 as ordered in Paragraph 1 above.
3. That the Commission reserves the right, in case the said E. J. Whitney and Harry L. Person do not com-



ply with the terms of this order, to direct them by supplemental order to refund to their consumers in said Maravilla Park Tract, or Tract No. 4824, all moneys collected for water services heretofore rendered by them or their agents, without proper compliance with the terms of the Commission's order in Decision No. 14043.

4. That E. J. Whitney and Harry L. Person be and they are hereby directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates for all water delivered to consumers in Maravilla Tract, Los Angeles County:

MONTHLY METER RATES

From 0 to 500 cubic feet, per 100 cu.ft.	\$0.35
All over 500 " " " " "	.25

MONTHLY MINIMUM RATES

For 5/8 inch meter. . . . .	\$1.50
For 3/4 " " . . . . .	2.50
For 1 " " . . . . .	4.00

Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that minimum will purchase at the "monthly meter rates".

MONTHLY FLAT RATES

- (a) Residence of 5 rooms or less. . . . \$1.75  
 . . . For each additional room. . . . . .25  
 Additional for each private barn or garage with not more than two horses or cows or one automobile . . . . .25  
 For each additional automobile. . . . .25  
 For each additional horse or cow. . . . .20
- (b) Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per 100 square feet. . . . . .06

For all other purposes the effective date of this order

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shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of

January, 1926.

H. B. Boudette

C. J. Seaver

George D. Squires

Leon Whitell  
Commissioners.