

Decision No. 15947.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EL PISMO WATER CO., W. W. WARD,)
W. CLYDE HEDDING, JOHN PLESSAS,)
J. B. BUTLER, J. R. SIMMONS, ADAM)
ULM, E. P. EBNER, ADOLPH UNBEHEM,)
HANS P. SZOV, CHARLES BELL and)
G. M. HEDDING, for an order author-)
izing the sale of the property and)
water franchise of the EL PISMO)
WATER CO.)

Application No. 12394.

M. R. Van Wormer, for El Pismo Water Company,
W. W. Ward, W. Clyde Hedding et al.

Fred A. Shaeffer, for Pismo Beach Water Company,
protestant.

BY THE COMMISSION:

O P I N I O N

In the above entitled application W. W. Ward has requested this Commission to authorize the transfer of the public utility water system owned and operated by him under the fictitious name and style of El Pismo Water Company and used to furnish water for domestic and commercial purposes to inhabitants of the town of Pismo, in San Luis Obispo County. The purchasers, W. Clyde Hedding, John Plessas et al., are a group of citizens of Pismo who have formed an organization to acquire this utility and have joined in the application.

A public hearing in the above entitled matter was held before Examiner Austin at Pismo after all interested parties had been notified and given an opportunity to be present and be heard.

At the hearing the interested parties agreed that it would be to the best interests of all concerned to combine for hearing and decision this matter with Application No. 12399, being an application filed by Pismo Beach Water Company, a corporation, asking the Commission for a certificate of public convenience and necessity to serve water in the town of Pismo and vicinity, including the entire territory now served by the present El Pismo Water Company, applicant above. However, it appears advisable to the Commission, in light of the circumstances surrounding these two matters, to render separate decisions.

The system owned by W. W. Ward, now serving the entire town of Pismo, has been operated as a public utility since some time prior to the year 1905. The water supply is obtained by pumping from wells which are highly impregnated with minerals, resulting in a water very disagreeable to the taste and highly undesirable for cooking and other domestic purposes. The service rendered by this system has been very poor for several years. The relations existing between the owner and the consumers have been very unsatisfactory and disagreeable to the consumers, principally by reason of the arbitrary methods and practices adopted by Ward in the conduct of his utility affairs. Because of this attitude the Commission caused to be made an investigation on its own motion into the reasonableness of the practices, charges, rules, regulations and conditions of service of the El Pismo Water Company, and as a result thereof issued its Decision No. 15713, dated November 30, 1925, in which the said Ward, among other things, was directed to improve the service conditions of this system and refund all moneys collected in excess of the legal rates for service. For a more complete history and description of this system and the methods of operation reference is hereby made to the above decision of this Commission.

The extremely poor quality of the water supply of this

utility and the failure on the part of Ward to improve the quality of the water by obtaining a more palatable supply, led to the formation of an organization by a group of business men of Pismo for the purpose of taking over the operation of this utility and improving the quality of the water and service. Negotiations were entered into and an agreement was made with said W. W. Ward in which it was agreed that the latter would sell the water properties of the El Pismo Water Company, exclusive of the wells, to the organization for a consideration of \$9,000 in cash. According to the testimony it is the intention of these prospective purchasers to acquire at once an adequate and more satisfactory supply of water to be substituted for the water obtained from the Ward wells, although these wells will be retained according to the agreement until the new supply is assured. It is also their intention to replace immediately certain of the water mains with new pipe of larger capacity, and in general improve the service and public relations with consumers.

The water system controlled by the Pismo Beach Water Company, a corporation, was originally organized and operated as a mutual water company for the purpose of delivering water to certain subdivided property situated along the hills immediately overlooking the town of Pismo. This company protests against the granting of this transfer of the El Pismo Water Company's properties on the ground that it has obtained from the Board of Supervisors of San Luis Obispo County a franchise authorizing it to construct and install a water system to supply territory including the town of Pismo and all of the service area of the Ward system, and has filed Application No. 12399, heard in conjunction with this same proceeding herein, in which the Commission is asked to grant to it a certificate of public convenience and necessity to supply water throughout the area covered by its franchise.

The existing system of the above Pismo Beach Water Company now serves only five consumers located in the above mentioned subdivided property adjoining the town of Pismo, upon the basis of these consumers being stockholders in the mutual water company. The water supply, which is claimed to be greatly superior in quality to the water now delivered to the residents of Pismo by the existing utility, is obtained from two drilled wells and stored in two tanks, one of 16,000 gallons capacity and the other 42,000 gallons, from which distribution is made by gravity. The entire system serving this subdivided property cost in the neighborhood of \$30,000 to install, according to the testimony. This company states that it intends to issue and sell \$15,000 worth of its stock to obtain funds necessary to install a complete new water system in the town of Pismo, capable of rendering adequate fire service to the community provided the necessary permission can be obtained from this Commission.

A careful consideration of the evidence leads the Commission to the conclusion that the water supply of the Pismo Beach Water Company, while apparently of superior quality to that now served by the present utility, is not definitely established as to its capacity and adequacy, and it further appears that little or no showing was made to this Commission as to the present financial ability of this company to obtain the funds necessary to install the water system and other improvements required to serve the town of Pismo.

The officials of the Pismo Beach Water Company, while heavily interested in real estate developments in the vicinity of Pismo, are not residents of the town. The organization of citizens who have entered into the agreement with W. W. Ward to purchase his water system, is composed of a group of responsible business men representing the Chamber of Commerce of Pismo and residing in the town, having not only the financial resources to obtain the necessary

funds but also having the desire and civic duty to promote the welfare of the community. In addition, this organization has already obtained a contract to acquire the existing system and will be enabled to render service to the public immediately, pending the time when the necessary improvements have been installed.

It is our opinion therefore that it will be to the public interest to approve the transfer of this water system to the group of Pismo citizens, W. Clyde Hedding, John Plessas et al.

The evidence shows that W. W. Ward has not as yet complied with the provisions of Decision No. 15713 in Case No. 2152 to the satisfaction of the Commission. A review of the evidence presented in said Case No. 2152 and of the matters set out in Decision No. 15713 therein, and a consideration of the argument presented by M. R. Van Wormer, counsel for W. W. Ward, in connection with the petition for rehearing filed in said case and heard jointly with this proceeding, has convinced the Commission that its order issued therein is reasonable, fair and just and should be carried out. The petition of W. W. Ward for a rehearing in the above mentioned Case No. 2152 has been denied by the Commission in its Decision No. 15950, rendered this day. In view of the fact that the order above referred to, No. 15713, has not yet been fully complied with, the authority for the transfer given herein will be made contingent upon the full and complete compliance by W. W. Ward with the terms and conditions of said order.

O R D E R

W. W. Ward having made application to this Commission for authority to transfer certain water properties of the El Pismo Water Company to W. Clyde Hedding et al., who have joined in the application, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed

thereon,

IT IS HEREBY ORDERED that W. W. Ward be and he is hereby authorized to transfer to W. Clyde Hedding, John Plessas, J. B. Butler, J. R. Simmons, Adam Ulm, E. P. Ebner, Adolph Unbehend, Hans P. Skow, Charles Bell and G. M. Hedding that certain public utility water system owned by said W. W. Ward in the town of Pismo, San Luis Obispo County, in accordance with the terms and conditions of Exhibit "A", attached to and made a part of the application herein and upon the following further conditions:

1. The authority herein granted shall become effective only upon full and complete compliance by W. W. Ward with the terms and conditions of the Commission's order in its Decision No. 15713, dated November 30, 1925, which is hereby referred to and incorporated by reference and made a part of the order herein, and upon the showing by said W. W. Ward to the satisfaction of the Commission that the terms of said order in said Decision No. 15713 have been properly complied with on or before the 15th day of March, 1926, and the Commission has issued its supplemental order herein.
2. The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate fixing or for any purpose other than the transfer herein authorized.
3. The authority herein granted shall apply only to such transfer as shall have been completed on or before April 1, 1926, and a certified copy of the final instrument of conveyance shall be filed with

this Commission by W. W. Ward within thirty (30) days from the date on which it is executed.

4. Within ten (10) days from the date on which W. W. Ward actually relinquishes control and possession of the property herein authorized to be transferred, he shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

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 6th day of February, 1926.

H. A. Brundage
Chairman
Commissioners.

Leon Whitell
Commissioners.