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Decision No. 17796

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Investigation on the Commission's own motion of the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of B. G. ADAMS, operating under the fictitious name of VERMONT WATER COMPANY, in Tracts Nos. 2273 and 4754, Figueroa Heights, Woolocott Heights and Vermont Villa Tract, Los Angeles County, California.	)	Case No. 2276

Clarence Weber for B. G. Adams.

WHITSELL, Commissioner:

O P I N I O N

This proceeding was begun by the Commission by an order on its own motion instituting an investigation into the reasonableness of the rates, charges, practices, contracts, rules, regulations, etc., of B. G. Adams, operating under the fictitious name of the Vermont Water Company in Tracts 2273 and 4754, Figueroa Heights, Woolocott Heights and Vermont Villa tracts, Los Angeles County, California. The order instituting investigation was issued under date of September 4, 1926. A public hearing on the matter was held in the City of Los Angeles on November 3, 1926, at which time evidence, both oral and documentary, was taken. B. G. Adams was present at the hearing with his attorney, Clarence Weber.

The record in this proceeding shows that B. G. Adams, under the fictitious name of the Vermont Water Company is operating a public utility domestic water system in the City of Los Angeles,

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in the vicinity of 110th and Hoover Streets, and that he has been operating such system continuously since March 23, 1925. At the present time some 195 consumers are being served. It appears that the system is being operated pursuant to the authority granted by this Commission by its Decision 13305, dated March 22, 1924, which decision was rendered in the matter of Application 9650. By this application B. G. Adams sought a certificate of public convenience and necessity as required by law for the operation of his system, and described in detail territory which he proposed to serve, the type of plant constructed and the rate proposed to be charged. Subsequent to the granting of the certificate of public convenience and necessity by Decision 13305, B. G. Adams, under date of March 23, 1925, filed with this Commission his rates, rules and regulations covering his operations. It appears that the said rates, rules and regulations so filed are still in full force and effect, and that no authority has been granted by this Commission for their modification. Rule 19 of the said rules and regulations provides as follows:

"RULE AND REGULATION

No. 19 - Extension of Water Service, Cost and Ownership on Private Property.

Upon application by a bona fide applicant for service, the Company, will, at its own expense, furnish and install service pipe of suitable capacity from its water mains to the curb line or property line of property abutting upon a public street, highway, alley lane or road along which it already has or will install street mains.

The consumer will install that portion of the service inside of curb or property line, the expense of same to be paid by the consumer.

The materials furnished by consumer in construction of such service extension will at all times be and remain the sole property of the consumer and when necessary shall be maintained and repaired by consumer at his own expense.

The Company will not be required to install more than one service to any one consumer."

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The testimony in this matter shows that the above quoted rule 19, since its establishment, has been violated by the operator, B. G. Adams, in 89 instances. It appears to have been the practice of Mr. Adams to exact a "tap fee" of Fifteen Dollars from a prospective consumer before a physical connection would be made from the street water main of the system to the abutting curb line or property line of the consumer. Every such fee so exacted clearly was in violation of Rule 19 inasmuch as under said rule it was incumbent upon the operator, at his own expense, to furnish and install such necessary pipe and connections.

In my opinion, Mr. B. G. Adams should be required to refund all "tap fees" which he has collected since March 23, 1925, the date upon which he filed with the Commission his rates, rules and regulations, and the date upon which his operations unquestionably acquired the status of a public utility.

Apparently by way of justification for his practice of charging a "tap fee", Mr. Adams testified that the City of Los Angeles, in the operation of its municipal water system in and around the territory in which he operates, has been charging its new consumers such a fee for a like service. The City of Los Angeles, in the operation of its water system, of course, is not subject to the jurisdiction of this Commission, and therefore, does not operate under rules and regulations on file with this Commission as does Mr. Adams. The practice of the City in this matter could in no way justify this operator in the violation of his Rule 19.

It is well recognized by this Commission that the requirements found in Rule 19 are reasonable. Practically all of the domestic water companies of this state, subject to the jurisdiction of this Commission have established and filed with this Commission a rule in substance the same as Rule 19 of the Vermont Water Company. The reasonableness of such rule was

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carefully reviewed in an early decision of this Commission, wherein it established certain uniform rules and regulations to be observed by water companies and other designated public utilities (7 Railroad Commission Reports, 830, 851).

The following form of order is recommended.

O R D E R

The Railroad Commission of the State of California having instituted an investigation upon its own motion into the reasonableness of rates, services, rules, regulations and practices of B. G. Adams, operating under the fictitious name of the Vermont Water Company, in Tracts 2273 and other designated tracts in Los Angeles County, California, a public hearing having been held thereon, the matter having been submitted, and it being the opinion of this Commission that the service here in question is a public utility service subject to its jurisdiction and control,

IT IS HEREBY FOUND AS A FACT that the said B. G. Adams, in the operation of his said public utility water system has violated Rule 19 of his rules and regulations on file with this Commission, in the manner outlined in the foregoing opinion.

IT IS HEREBY FURTHER FOUND AS A FACT that the said B. G. Adams has violated said Rule 19 in the said manner in 89 instances since the establishment of said rule on March 23, 1925.

And basing its order on the foregoing findings of fact, and on the further statements of fact contained in the opinion which precedes this order,

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IT IS HEREBY ORDERED that B. G. Adams refund to all consumers having paid the same, all "tap fees" collected since the establishment of his Rule 19 on March 23, 1925; that such sums be refunded within thirty (30) days from the effective date of this order; that within forty (40) days from the effective date of this order, said B. G. Adams file with this Commission a statement showing the names and addresses of persons to whom such "tap fees" have been returned, the respective amounts returned, and the dates upon which such sums were returned.

The effective date of this order shall be twenty (20) days from date hereof.

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

Dated at San Francisco, California, this 23rd day of December, 1926.

Commissioners

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