

Decision No. 19236

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Steve Berti, Complainant, vs. D. Rovai, Defendant.	Case No. 2397.
--	----------------

Steve Berti, in propria persona.

D. Rovai, in propria persona.

BY THE COMMISSION:

O P I N I O N

This complaint was filed by Steve Berti, a consumer, receiving water from a small public utility owned and operated by D. Rovai and supplying water to the residents of Wildwood, in Humboldt County. The complainant alleges in effect that for a long time defendant has been charging him a flat rate of four dollars (\$4.00) per month for water service to his premises, which rate is in excess of the schedule authorized by the Railroad Commission; that complainant has made repeated requests that he be given the residential flat rate of \$1.50 per month, or that a meter be installed and service charged for at the meter rate as established by the Commission, but that defendant has refused, and still refuses. to comply with his request. No answer to the

complaint was filed by the defendant.

A public hearing in this matter was held before Examiner Gannon at Rio Dell, Humboldt County, after all interested parties had been duly notified and given an opportunity to appear and be heard.

According to the evidence, Berti owns a two-story building which is occupied on the first floor by a grocery store, a cigar-stand and a pool-room, and his own living quarters in the rear; on the second floor there are eleven small rooms which only occasionally have been used to accommodate lodgers. The premises in no sense of the word can be considered as a hotel or rooming-house under such classification in the existing rate schedule. The water facilities consist of five water taps on the ground floor, supplying the living quarters only, and a flush toilet and sink on the second floor. The grocery store, pool-room and cigar-stand have no water taps.

Berti testified that he has operated the store on the premises since 1919 and that the charge for water service has always been two dollars (\$2.00) per month for his premises until December, 1925, when the Commission fixed a new schedule of rates to be charged for the water service rendered by Rovai's water system. Shortly thereafter, Rovai increased the charges to four dollars (\$4.00) per month and Berti immediately requested that a meter be installed on the service and the charges be made at the established meter rate, the monthly minimum charge being \$1.50. Defendant refused to install the meter and, after a considerable period of dispute over the matter, in July and September of 1927, Berti deposited with the Commission for adjustment the full amount of the bills in dispute for the months of July, August and September, in accordance with defendant's rules and regulations on file

with the Commission. In spite of the fact that said rules precluded the shutting off of service after deposit with the Commission, Rovai nevertheless discontinued service to Berti's premises and he was without any water service whatsoever from September 14th to September 29th, 1927, when the service was resumed upon direct telegraphic order of the Railroad Commission. Obviously, this arbitrary and improper action on the part of defendant caused complainant a great deal of inconvenience and discomfort.

Defendant Rovai contended that he considered the charge of four dollars (\$4.00) per month to be a reasonable one and also claimed that he could not install a meter on the service pipe now supplying the premises without first constructing two miles of new pipe line to connect with the Berti premises. The fact that this property is now and for many years last past has been receiving water from defendant's system clearly indicates the absurdity of this contention and furthermore plainly shows that defendant has not acted in good faith in the matter. No such rate as charged complainant and applicable to this property is to be found in the rate schedule and it is clear from the evidence that the charges made are improper. No explanation was made by defendant of his repeated refusals to resume service to complainant after several written requests for such reconnection had been made informally by the Commission. The evidence shows that such refusals have been wholly unjustified and in deliberate violation of his own rules and regulations, and in contemptuous defiance of this Commission. It must be distinctly understood by defendant that this Commission will not tolerate further inconsiderate and unreasonable treatment of consumers receiving water from his system and, should such acts continue in the future,

defendant may rest assured that the Commission will invoke its punitive powers to the fullest extent.

A consideration of the evidence indicates that since the first day of January, 1926, at which time the present schedule of rates was made effective by the Commission, the proper flat rate charge for water service to complainant's premises was, and still is, \$1.50 per month, except for the month of September, 1927, when a fifteen day service only was given and for which the sum of seventy-five cents only is properly chargeable. All amounts in excess of the above, billed complainant for service subsequent to January 1, 1926, are improper and not in conformity with the established rates and therefore should be refunded.

Defendant's records are incomplete and do not show the full amounts either billed or collected from Bertl since January 1, 1926. Complainant was unable to supply receipts for the full period, although there was no question that any of the bills had been unpaid. It is of evidence, however, that, since the rate was increased to four dollars by defendant, complainant had paid all such amounts under protest until he deposited with the Commission for adjustment on July 22nd, September 22nd, and September 26th a total of eleven dollars and thirty cents (\$11.30), covering the amounts claimed due by defendant for the months of July, August and September, 1927.

The testimony shows that Bertl has been charged and has paid twenty-four dollars (\$24.00) for water service for the six months' period commencing July 1, 1926, and thirty-five dollars and thirty cents (\$35.30) for the period from January 1, to and including the month of September, 1927; whereas, the

proper amounts should have been nine dollars (\$9.00) and twelve dollars and seventy-five cents (\$12.75), respectively, making a total overcharge of thirty-seven dollars and fifty-five cents (\$37.55), covering said period from July 1, 1926, to and including September 30, 1927. Of the above overcharge, eleven dollars and thirty cents has been deposited with the Commission which will be returned by the Secretary of this Commission to complainant, leaving twenty-six dollars and twenty-five cents, which defendant shall refund to complainant for said period, provided, however, that in the event the water bills for the months of October, November and December have not been billed and collected, the total amount for said months at the rate of \$1.50 per month may be deducted from the above amount.

To avoid future difficulties, defendant shall hereafter designate on all receipts given his consumers the month or other period covered by such receipt.

The complainant at the hearing has asked that a meter be installed upon his premises and, as this request has not as yet been complied with and as measured service should avoid any future controversy over the amount of water actually used, defendant shall proceed without delay to install a meter in good working order on the service connection supplying the Berti premises.

ORDER

Complaint as above entitled having been made by Steve Berti against D. Rovai, owner and operator of a public utility supplying water to consumers in the Town of Wildwood, in Humboldt County, a public hearing having been held thereon,

the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED as follows:

1. That D. Rovai be and he is hereby ordered and directed to refund to Steve Berti, within thirty (30) days from the date of this order, the sum of twenty-six dollars and twenty-five cents (\$26.25), covering overcharges for water service paid by said Steve Berti during the period from July 1, 1926, to and including September 30, 1927, providing, however, that in the event no collections have been made for service rendered said Berti for all or any of the months of October, November and December, 1927, deduction from said refund at the rate of one dollar and fifty cents (\$1.50) for each such month may be made.
2. That D. Rovai shall notify this Commission in writing within ten (10) days of the date said refund shall have been made and the amount thereof.
3. That D. Rovai be and he is hereby ordered and directed to install within sixty (60) days from the date of this order, on the service connection supplying the premises of Steve Berti, a standard water meter in good and proper working order and to notify this Commission in writing within ten (10) days from the date of installation thereof that said meter has been so installed.

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 10th day
of January, 1928.

Leon Whipple

C. Seamy

W. M. ...

Thos. J. ...

M. J. ...
Commissioners.