

Decision No. 22004

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation upon the Commission's own motion into the rates, charges, contracts, rules, regulations, classifications, operations, practices, service, or any of them, of A.P. Mathews, receiver of Municipal Properties Company, a corporation, engaged in the sale and distribution of water in and in the vicinity of the Town of San Carlos, County of San Mateo, State of California, and San Francisco Bank, a corporation, and Sierra Finance Corporation, a corporation, mortgagees of said Municipal Properties Company.

ORIGINAL

Case No. 2808.

Sterling Carr, for A.P. Mathews, Receiver.

Chickering & Gregory, by Stephen R. Duhring,
for San Carlos Water Company.

James Martin, for Town of San Carlos.

C. Sorenson and T.W. Simmie, Consumers.

LOUTHIT, COMMISSIONER:

O P I N I O N

This is a proceeding brought by the Commission on its own motion to investigate the rates, charges, contracts, rules, regulations, classifications, operations, practices, service, or any of them, of A.P. Mathews, Receiver of Municipal Properties Company, a corporation owning and operating a public utility water system supplying approximately fifty-six consumers in the Devonshire Hills subdivision in and in the vicinity of the incorporated Town of San Carlos, San Mateo County.

A public hearing in the above entitled matter was held

at San Francisco.

The system was installed by Municipal Properties Company in 1925 to serve a subdivided area adjoining the Town of San Carlos and Municipal Properties Company was granted a certificate of public convenience and necessity and its rates established by the Commission in its Decision No. 20045, dated July 16, 1928.

Prior to the issuance of the certificate, a deed of trust had been executed by the Municipal Properties Company pledging all of the property including the water system as security for the payment of an indebtedness. Municipal Properties Company passed into the hands of a Receiver in February, 1929. The Receiver was apparently without funds to operate the system which resulted in the water service being discontinued in August, 1929. In order to provide service to the tract, the Commission asked the San Carlos Water Company, a corporation, to operate the system. A contract was negotiated with the Receiver, providing for the operation of the water system for a period of three months on the condition that the existing rates be increased in order to provide sufficient revenue to meet actual operating expenses. The Commission thereupon issued its supplemental order, Decision No. 21526, dated September 11, 1929, which provided for a surcharge of \$1.25 per consumer per month. This contract has now terminated and the Receiver reports that he still is without funds to operate the water system and desires to have the San Carlos Water Company continue to operate same. The Company, however, contends that during the period of its operations the expenses exceeded the revenues and it refuses to continue the service under the existing rates.

The system obtains water by purchase from the Spring Valley Water Company. The water is distributed to about forty

consumers by pressure from the Spring Valley Water Company's mains. Owing to the elevation of portions of the tract, it is necessary to pump the water to the remaining sixteen consumers, some of which require two lifts. The pumping facilities installed were designed for the fully developed tract and the standby for power exceeds the power used for present demands for service. The costs of water, power and the labor required to operate the manually-controlled pumps are the largest items of expense.

San Carlos Water Company is voluntarily operating this system solely to meet an emergency situation and it is evident that it would be unjust to cause them any financial loss by reason of acting as agent for the Receiver. The Commission is confronted with the necessity of providing some means to insure the consumers in this area receiving temporary service.

Representatives of the owner of the Club House, which is located at the highest elevation in the tract, stated that they would agree to a service charge of \$50. per month plus the regular measured quantity water rates at present in effect. The Town of San Carlos has agreed to pay \$48. for approximately 32 fire hydrants within the area. Even after this revenue is available, San Carlos Water Company would meet a monthly loss under present operating conditions. It is therefore necessary to increase the present surcharge from \$1.25 to \$2.00 per consumer per month for an additional three-month period, or until the further order of the Commission.

The system, since the fourteenth day of September, 1929, has been operated under the terms of a contract entered into by and between Arthur P. Mathews as Receiver in bankruptcy of the

property of the Municipal Properties Company, Inc., a corporation, and the San Carlos Water Company, a California corporation, which said agreement received the approval of the Commission in its Decision No. 21526. The San Carlos Water Company at the hearing stated that, although it would rather be relieved from further operation of the system, it would, nevertheless, under a schedule of rates which would result in more revenue to the operating company so that losses in the future would be eliminated, be willing, under a contract similar to the one which received approval as hereinabove stated, to continue to operate the properties for a three-months' period with the understanding that, if necessity arose, it might come before the Commission in this proceeding for a further adjustment in rates or such other matters as might be necessary to meet such emergencies as should arise in the future.

The Receiver, through his attorney, announced that, by reason of the existence of the Receivership, the Commission had no jurisdiction to make any order binding upon the Receiver in this proceeding; however, it is unnecessary to determine this jurisdictional question at this time as the order herein will be, in so far as the Receiver is concerned, merely permissive and an authorization to him if he so desires to enter into a contract similar to the one which received its approval in Decision No. 21526.

This proceeding should be held open so that, if any contingencies or emergencies develop whereby additional orders may be necessary to be issued, they may be issued in this proceeding.

The following form of order is recommended.

O R D E R

An investigation on the Commission's own motion as entitled above having been instituted, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that A.P. Mathews, Receiver of Municipal Properties Company, a corporation, and San Carlos Water Company, a corporation, be and they are hereby authorized to enter into a contract providing for the operation of the Municipal Properties Company's water system, similar to the contract heretofore providing for such operation and which has now expired.

IT IS HEREBY FURTHER ORDERED that San Carlos Water Company, a corporation, be and it is hereby authorized to operate the water system of the Municipal Properties Company in accordance with the terms and conditions of the above mentioned contract.

IT IS HEREBY FURTHER ORDERED that San Carlos Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, an emergency surcharge of Two Dollars (\$2.00) per month to be charged, effective as of January 1, 1930, all consumers of the Municipal Properties Company's water system in Devonshire Hills tract, San Mateo County, with the exception of the Country Club, said surcharge to be in addition to the charges specified in the Commission's Decision No. 20045, dated July 16, 1928.

IT IS HEREBY FURTHER ORDERED that San Carlos Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within twenty (20) days from and

after the date of this order, the following rates to be charged for the special service rendered for the municipal and Country Club uses, effective as of January first, 1930.

MUNICIPAL USE

Town of San Carlos for fire hydrant rental in Devonshire Hills tract, per month-----\$48.00

DEVONSHIRE HILLS COUNTRY CLUB USE

A monthly charge of \$50.00 to cover minimum power charges in addition to the payment of the monthly charges for water used at the regular monthly quantity rates.

IT IS HEREBY FURTHER ORDERED that a certified copy of the contract to be entered into by and between Arthur P. Mathews, Receiver of Municipal Properties Company, a corporation, and the San Carlos Water Company, a corporation, be filed with this Commission within ten (10) days from the date hereof.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the 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 13th day of January, 1930.

Al Seaver
Ernest A. ...
Leon ...
Thos. ...

Commissioners.