

Decision No. 22272

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PEARL C. STOLTENBERG, et al,
Complainants,

vs.

HOME ACRES WATER COMPANY, et al,
a mutual organization,
Defendants.

Case No. 2771.

E.W. Stoltenberg, for Complainants.

Nichols, Cooper & Hickson, by A.L. Hickson,
for Defendants.

BY THE COMMISSION:

O P I N I O N

In the above entitled proceeding, Pearl C. Stoltenberg and thirty-two other complainants who are consumers of water from the Home Acres Water Company operating in a portion of the City of Pomona allege that said company is a mutual organization composed of sixteen members but has, however, supplied irrigation water to complainants during the year 1928 at a regular rate of \$1.25 per hour and that at the beginning of the year 1929 said company raised the rate to \$1.50 per hour without proper authority. It is further alleged that such increased rate is excessive and that the amount of water delivered therefor is not adequate. The Commission is asked to require the Home Acres Water Company to reduce its rates and grant whatever further relief may seem just in the premises.

Defendants, in answer, deny that they are a mutual water company or that they are operating as a public utility and allege that they are the owners as tenants in common of a well and pumping plant and that, as such, said defendants furnished water to complainants in 1928 at \$1.25 per hour and, after extensive repairs and improvements in the pumping plant were made, complainants were assessed an additional charge of 25¢ per hour for service rendered during the year 1929. Defendants ask that the complaint be dismissed and that they be permitted to continue to operate as in the past.

A public hearing in this matter was held before Examiner Satterwhite at Pomona.

According to the evidence the Home Acres Water Company was formed approximately twenty years ago by the owners of lands in a tract containing thirty-six acres, more or less, known as Home Acres, now within the City of Pomona, for the purpose of supplying water for agricultural irrigation and domestic purposes thereto. A 1/36th interest in the water system was assigned to each acre of land. At the present time there are approximately sixteen interest or shareholders in Home Acres Water Company whose ownership thereof is as tenants in common. At some period in the past, apparently for the purpose of reducing operating expenses, water service was extended to supply consumers in adjacent territory where complainants now reside and for which charges have been made upon the basis of an hour's run of the pumping plant. Defendant owners have been paying for such service at the rate of 75¢ per hour while during 1928 outside consumers were charged \$1.25 per hour, increased for the year 1929 by defendants to \$1.50 per hour. Service to these outside consumers has been rendered for a number of years without any

restrictions or refusals. Such consumers, now numbering approximately fifty, have never been required to become stockholders or part owners of all or any part of the system or to sign any agreements in the nature of a contract, or otherwise, as a condition precedent to obtaining service other than an attempt made in 1929, as claimed by defendants, when outside consumers were asked to sign a statement to the effect that such service was for the purpose of neighborly accommodation only and was temporary in character and not to be considered as a public utility service. Consumers at that time refused to sign such statements.

It is clear from the evidence that the original organization of this water system contemplated the production and distribution of water solely by and to its owners, the costs thereof to be borne upon an equal basis according to the use of water. However, this cooperative form of water distribution was not strictly adhered to and water service was thereafter rendered indiscriminately, at definitely established charges fixed by the plant owners, to consumers who in no instance held any title, right or interest in or to the pumping plant, or any part thereof, and who lived outside and beyond the original Home Acres tract. It is equally clear that, by so doing the operators of this water system dedicated such waters to the members of the general public supplied in that territory immediately adjacent and outside and beyond the original Home Acres tract or subdivision and that such service is public utility in character and under the jurisdiction and control of the Railroad Commission. It necessarily follows that the act of defendants in increasing the rate heretofore charged without authority from this Commission is improper and illegal. Defendants will be required to continue service to those consumers now supplied and living outside the

boundaries of the Home Acres tract at the former rate of \$1.25 per hour's run of the pump, unless and until such rate be changed or modified by this Commission. Should it appear that said rate is unreasonably low and confiscatory for the service rendered, defendants have the right to apply to the Commission for the establishment of a proper charge for such service. All charges in excess of the above \$1.25 per hour's run of the pump which may have been assessed against such consumers should be refunded to them either by cash payment or by way of credits on future water bills. Defendants will be required to file with this Commission the above rate of \$1.25 per hour's run of the pump, together with rules and regulations governing the service of water to their consumers.

O R D E R

Complaint as entitled above having been filed with this Commission, 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 that Home Acres Water Company file with this Commission, within thirty (30) days from the date of this order, the rate of \$1.25 per hour's run of its pumping plant to cover all service rendered to its consumers residing outside and beyond the thirty-six acre tract of land known as Home Acres, said tract being situate in the City of Pomona, Los Angeles County.

IT IS HEREBY FURTHER ORDERED that said Home Acres Water Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations governing its relations with its consumers, said rules and regulations to become

effective upon their acceptance for filing by this Commission.

IT IS HEREBY FURTHER ORDERED that Home Acres Water Company refund to all consumers all charges, if any, made for water service in excess of the above stated charge of \$1.25 per hour's run of the pump either by cash payment or by credits on future bills for service rendered to said consumers, provided that all such repayments by cash or in kind be made in full on or before six (6) months after the date of this order.

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 1st day of April, 1930.

Cl. Sawyer

Leon A. White
Thos. D. Smith

M. J. Lee
 Commissioners.