

ORIGINAL

Decision No. 23893

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 S.R. DUNPHY and HAZEL DUNPHY, WILLIAM  
 KAMMERER and LUCY KAMMERER, A.W. KAMMERER  
 and CORA KAMMERER to transfer public  
 utility water system to GEORGE V. SMITH,  
 and GEORGE V. SMITH for a certificate of  
 public convenience and necessity to op-  
 erate same and adjustment of rates.

Application No. 17364.

Morris A. Cain, for George V. Smith.  
 A.W. Kammerer, in propria persona.

BY THE COMMISSION:

O P I N I O N

In this proceeding, the Railroad Commission is asked to approve a series of unauthorized transfers of a water system heretofore impressed with a public servitude and now supplying water to the residents of Tracts Nos. 540 and 490, Orange County. The final purchaser, George V. Smith, also asks that he be granted a certificate of public convenience and necessity to operate said plant and that there be established a reasonable rate for the service to be rendered.

A public hearing in this matter was held before Examiner Kennedy at Fullerton on June 18, 1931.

The evidence shows that several years ago the J.D. Miller Realty Company subdivided Tract No. 540, Orange County, and installed thereon a water system to aid in the sale of lots. Water

was supplied free of charge until the system was acquired by S.R. Dunphy and Hazel Dunphy, his wife, who commenced collecting a monthly flat rate charge from all users both in Tract No. 540 and also in the adjoining Tract No. 490. In February, 1928, the property was transferred to William Kammerer and wife, Lucy, and A.W. Kammerer and wife, Cora, each family receiving a one-half interest in the property, and in February, 1931, the entire title and interest was again transferred to A.W. Kammerer. According to the testimony, these operations were conducted and transfers made without any of the parties thereto being aware of the necessity of approval of such acts by this Commission. In May, 1931, said Kammerer entered into an agreement to transfer the water system and properties to George V. Smith, and the Commission is asked to authorize each of the foregoing transfers and to clear up any further question of illegal operation by granting to applicant Smith a certificate of public convenience and necessity and to fix a schedule of rates to be charged his consumers. The evidence shows that A.W. Kammerer has other and outside business interests and, as he resides in the town of Fullerton, he is therefore unable to give this water system his personal attention. Said George V. Smith, however, resides in the vicinity of the water plant and owns ten acres of land immediately adjoining the subdivided tracts which it supplies. He is therefore in a better position to manage the utility service and it appears that the necessary permission should be granted to said Smith to operate the water works. Under the circumstances approval of all of the former transfers of this system will be unnecessary, the granting of a certificate of public convenience and necessity and the authorization of the transfer to applicant at this time will be sufficient to insure the integrity

of his title thereto. The pipe lines having been installed several years ago before the streets and roadways in the tracts were dedicated to the public, the franchise requirements may be considered as sufficiently satisfactory for the purposes of this proceeding.

In support of the application for adjustment of rates, applicant George V. Smith states that the original cost of the system is in excess of \$5,000 and that the revenue of approximately \$1,050 per annum under the present flat rate of \$1.25 per month, from the average of seventy consumers now served, does not yield sufficient revenue to pay a reasonable return upon the investment after deducting operating expenses and depreciation.

F.E. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report and appraisal of the system based on the estimated original cost, of which the following tabulation is a summary.

Estimated Historical Cost-----	\$5,421
Replacement Annuity-----	163
Maintenance and Operating Expense-----	1,010
Gross Revenues-----	1,050
Deficit, exclusive of Interest Return-----	123

The figures set out above show that the distribution of water on this system under present charges may be expected to result in an operating deficit in excess of \$123 per year without consideration of an interest return upon the capital invested. It is evident, therefore, that applicant George V. Smith is entitled to an adjustment of the present rates. The schedule requested is identical with the schedules of several other small utilities operating in the general vicinity under similar conditions and appearing to be reasonable and fair will be authorized in the follow-

ing order.

O R D E R

Application having been made to the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises, now therefore,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that George V. Smith operate a water system for the purpose of supplying water for domestic and other purposes within the territory known and designated as Tracts Nos. 540 and 490, Orange County.

IT IS HEREBY ORDERED that A.W. Kammerer be and he is hereby authorized to transfer to George V. Smith the water system supplying Tracts Nos. 540 and 490, Orange County, more particularly described as:

"The south 20 feet of Lot 90 of Tract No. 540, Laurel Square, as shown on a map recorded in Book 22, page 44, of Miscellaneous Maps, Records of Orange County,"

together with the water mains, pipe lines, equipment and appurtenances thereto used in supplying said tracts, subject to the following terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before the thirty-first day of October, 1931, and a certified copy of the final instrument of conveyance shall be filed with this Commission by A.W. Kammerer within thirty (30) days from the date on which it is executed.
2. Within ten (10) days from the date on which said A.W. Kammerer 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 were relinquished.

3. 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 any purpose other than the transfer herein authorized.

IT IS HEREBY FURTHER ORDERED that George V. Smith be and he is hereby directed to file with the Railroad Commission of the State of California, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all service rendered subsequent to the 31st day of July, 1931.

MONTHLY FLAT RATES

For tenement or dwelling house of five rooms or less, with toilet and bath, on lot not over 50-foot frontage-----	\$ 1.50
For each additional room-----	.10
Small store or shop-----	1.50
Large store or shop or meat market-----	1.75
Soft drink parlor or bakeries-----	2.00
Public hall or billiard parlor with toilet or urinal-----	1.50
Drug store without soda fountain-----	1.50
Drug store with soda fountain-----	2.50
Barber shop with one chair-----	1.50
For each additional chair-----	.50
Water for irrigation not included in the above schedule, per square yard irrigated-----	.005

MONTHLY METERED SERVICE

Minimum Monthly Charges:

For 5/8-inch meter-----	\$ 1.50
For 3/4-inch meter-----	1.75
For 1-inch meter-----	2.25
For 1½-inch meter-----	4.00
For 2-inch meter-----	6.00
For 3-inch meter-----	15.00
For 4-inch meter-----	20.00

Each of the foregoing "Minimum Monthly Charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following "Monthly Meter Rates."

Monthly Meter Rates:

0 to 1,000 cubic feet, per 100 cubic feet---	\$.25
1,000 to 3,000 cubic feet, per 100 cubic feet---	.20
3,000 to 6,000 cubic feet, per 100 cubic feet---	.15
All over 6,000 cubic feet, per 100 cubic feet---	.12

IT IS HEREBY FURTHER ORDERED that George V. Smith be and he is hereby directed to file with the Railroad Commission of the State of California, within thirty (30) days from the date of this Order, rules and regulations governing relations with his consumers, said rules and regulations to become effective upon their acceptance for filing by the Railroad Commission.

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 21<sup>st</sup> day of

July, 1931.

W. C. Leaven  
Leon A. Hill

W. B. Harris  
James G. Stewart  
Commissioners.