

Decision No. 25155

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

B.L. Williams and F.E. Dale,
Complainants,

vs.

Emma C. Young, as owner of the
WEAVERVILLE WATER WORKS, a public utility,

Defendant.

Case No. 3133.

Jesse W. Carter, by Dallas L. Barrett,
for complainants.

E.R. Given and Chenoweth and Leininger,
by C.W. Leininger, for defendant.

BY THE COMMISSION:

O P I N I O N

This complaint was filed by B.L. Williams and F.E. Dale, residents of Weaverville, against Emma C. Young who owns and operates a public utility water system under the fictitious firm name and style of Weaverville Water Works (also known as the Weaverville Town Water Works), which supplies water for domestic and commercial purposes to certain inhabitants of the unincorporated town of Weaverville in Trinity County.

Complainants allege that there are now thirty-five residences in the town of Weaverville that are not being furnished water service by the defendant; that the water system as now constructed is not adequate to supply said residences and persons; that said residences are situated in a compact and con-

tiguous group in a part of the town of Weaverville and that defendant refuses to extend her water system to serve their premises.

Complainants ask that defendant be ordered to furnish and install mains, pipe lines and all other equipment necessary to supply them with at least 50,000 gallons of water every twenty-four hours under adequate pressure.

In her answer, defendant alleges that of the thirty-five residents who complainants allege desire water service there are twenty-two that have stated to her they would not accept the proposed water service but would rely upon their present private wells; that 50,000 gallons of water daily are not sufficient to meet the requirements of these residents and that it would cost at least forty-one thousand two hundred and fifty dollars (\$41,250) to comply with the demands of complainants, which sum it is alleged is an unreasonable expenditure in view of the maximum possible additional revenues to be received therefrom amounting to six hundred dollars (\$600) under present rates. WHEREFORE, the Commission is asked to dismiss the complaint.

A public hearing was held in the above entitled matter before Examiner Johnson at Weaverville.

The water supply for this plant is obtained from the East Fork of Weaver Creek. The ownership of the water rights on this stream, according to the evidence presented herein, purports to be as follows:

Estate of W.W. Young (Weaverville Water Works)-----	7/16
F.R. Ryan, formerly J.R. Blair (ice plant)-----	1/16
Mrs. E.L. Lowden-----	2/16
Trinity Consolidated Mining Company (Henry W. Miller)--	6/16

The water for all of the above owners is diverted jointly from the stream at a point three miles north of Weaverville and is conveyed through an old mining ditch, known as Howe Ditch, four miles to a

division box near Weaverville. At this point defendant and the ice company divert their respective allotments of water which is thereupon conveyed through another ditch about one-half a mile to the Electric Reservoir which has a storage capacity of approximately a million gallons. From here, water is transmitted through 900 feet of 11- and 9-inch pipe to the ice plant owned by F.R. Ryan, where it is used in the manufacture of ice. The water from the tail-race of the plant, which also includes defendant's water, is conveyed through 842 feet of 16-inch pipe to the local or town reservoir and is then distributed to about 100 consumers. The ditch from the division box, the Electric Reservoir and the penstock pipe to the ice plant are owned by F.R. Ryan, defendant paying an annual rental for the use thereof.

The testimony shows that the water owned or controlled by the Weaverville Town Water Works has been dedicated to an area which embraces only the northern two-thirds, more or less, of the town but excludes the southern section thereof commonly known as Fagtown. However, in 1907, the Fire Department installed at its own expense 2,650 feet of 4-inch mains, to which were connected eight fire hydrants for fire protection purposes only in the Fagtown area. Fagtown is now and for many years last past has been served water for household, domestic and irrigating purposes from a water system now owned by Henry W. Miller but formerly owned by the Trinity Consolidated Mining Company and a regular charge has been collected for such service, twenty-six consumers having been so supplied from this source in the year 1931. This system has been in operation since about the year 1876.

During the progress of the hearing a petition was presented signed by sixteen property owners of the Fagtown area now

receiving water from the Miller system and stating that they did not desire nor would they agree to accept water service from the defendant utility, thus reducing the potential number of consumers to nineteen. Testimony was presented on behalf of defendant by Joseph E. Spink, consulting engineer, to the effect that he estimated the original cost of the Weaverville Water Works to be \$8,344 and the value of defendant's water rights and interest in the transmission facilities \$8,750, making a total of \$17,094. According to his testimony defendant utility has earned an average annual revenue during the last five years of \$2,743 with operating expenses averaging \$1,875, exclusive of depreciation, for the same period, leaving an average annual net operating revenue of \$671 after depreciation. According to Mr. Spink this system supplies water under a flat rate method of delivery which has resulted in a very excessive use of water, making it impossible to supply adequately any additional consumers without either the complete metering of the present consumers or the acquisition of additional water rights. The evidence indicates that, in order to provide the service demanded, it would be necessary for the utility to reconstruct a large part of its existing pipe lines and to install new mains and storage facilities which would cost at a minimum \$13,688 without allowance of such additional expenditures as might be required for additional water rights. It appears further that defendant Emma C. Young, according to her testimony, is unable financially to make the necessary expenditures for this extension of service and is unable to obtain the money from outside sources. In addition to this, she is unwilling to extend service outside of her present dedicated area which she contends at no time ever embraced that section of the community in which complainants herein now

reside. In view of the fact that the record clearly indicates that this water works has never at any time held itself out to serve water for domestic, commercial and/or irrigation purposes to any of the territory to which complainants desire service and has consistently limited the domestic, commercial and irrigation service supplied by it to that portion of Weaverville now being supplied and the further fact that this territory is now being served by another water works which is undoubtedly public utility in character, it appears that the Commission would not be warranted under existing circumstances and conditions in attempting to force this utility to extend service beyond its present dedicated area. It should be pointed out in this connection that the service now rendered in a certain portion of Fagtown by this utility is solely for fire protection purposes and has never at any time been used for or dedicated to domestic and/or commercial uses, or other similar and pertinent purposes. We are therefore of the opinion that defendant is under no legal obligation or duty of complying with the request of complainants herein. Accordingly, therefore, the matter will be dismissed.

O R D E R

B.L. Williams and F.E. Dale having filed with this Commission a complaint as entitled above, a public hearing having been held thereon, the matter having been submitted and the Com-

mission being now fully advised in the premises,

IT IS HEREBY ORDERED that the above entitled proceeding
be and it is hereby dismissed.

Dated at San Francisco, California, this 6th day of
September, 1932.

P. L. Sawyer
Leon Whitney
W. A. Cline
W. B. Harris
Fred G. Stewart
Commissioners.